



**WELLINGTON**  
SHIRE COUNCIL  
*The Heart of Gippsland*

## **Council Meeting Agenda**

**Meeting to be held at**

**Port Of Sale Civic Centre**

**Foster Street, Sale**

**Tuesday 4 March 2014, commencing at 3pm**

**or join Wellington on the Web:  
[www.wellington.vic.gov.au](http://www.wellington.vic.gov.au)**

# ORDINARY MEETING OF COUNCIL – 4 MARCH 2014

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## Council Meeting Information

*Members of the Public Gallery should note that the Council records and publishes Council meetings via Webcast to enhance the accessibility of Council meetings to the broader Wellington community. These recordings are also archived and may be published on Council's Website for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, members of the gallery may address the Council at which time their image, comments or submissions will be recorded.*

*Members of the public who are not in attendance at the Council meeting but who wish to communicate with the Council via the webcasting chat room should lodge their questions or comments early in the meeting to ensure that their submissions can be dealt with at the end of the meeting.*

*Please could gallery visitors and Councillors ensure that mobile phones and other electronic devices are turned off or in silent mode for the duration of the meeting.*



## **A - PROCEDURAL**



## **STATEMENT OF ACKNOWLEDGEMENT**

***“We acknowledge the traditional custodians  
of this land the Gunaikurnai people,  
and pay respects to their elders past and present”***



## **PRAYER**

***“Almighty God, we ask your blessing upon the Wellington  
Shire Council, its Councillors, officers, staff and their families.  
We pray for your guidance in our decisions so that the  
true good of the Wellington Shire Council may result to  
the benefit of all residents and community groups.”***

***Amen***



## **A - PROCEDURAL**

### **A4 CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING/S**

**ITEM A4****ADOPTION OF MINUTES OF PREVIOUS MEETING/S**

ACTION OFFICER:

GENERAL MANAGER GOVERNANCE

DATE:

4 MARCH 2014

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**OBJECTIVE**

To adopt the minutes of the Ordinary Council Meeting of 18 February 2014 as tabled.

**CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

**PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

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**RECOMMENDATION**

*That Council adopt the minutes and resolutions of the Ordinary Council Meeting of 18 February 2014 as tabled.*



## **A - PROCEDURAL**

### **A5 BUSINESS ARISING FROM PREVIOUS MEETING/S**

**ITEM A5**

**BUSINESS ARISING FROM PREVIOUS MEETING/S**

ACTION OFFICER

CHIEF EXECUTIVE OFFICER

DATE:

4 MARCH 2014

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ITEM	FROM MEETING	COMMENTS	ACTION BY
Nil			



## **A - PROCEDURAL**

### **A6 ACCEPTANCE OF LATE ITEMS**



## **A - PROCEDURAL**

### **A7 NOTICE/S OF AMENDMENT OR RESCISSION**



## **A - PROCEDURAL**

### **A8 NOTICE/S OF MOTION**



## **A - PROCEDURAL**

### **A9 RECEIVING OF PETITIONS OR JOINT LETTERS**

**ITEM A9(1)**

**OUTSTANDING PETITIONS**

ACTION OFFICER

GOVERNANCE

DATE:

4 MARCH 2014

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ITEM	FROM MEETING	COMMENTS	ACTION BY
Nil			



## **A - PROCEDURAL**

### **A10 INVITED ADDRESSES, PRESENTATIONS OR ACKNOWLEDGEMENTS**

**ITEM A11**

**GALLERY COMMENTS**

DIVISION:

CHIEF EXECUTIVE OFFICER

ACTION OFFICER:

CHIEF EXECUTIVE OFFICER

DATE:

4 MARCH 2014

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## **A - PROCEDURAL**

### **A12 QUESTIONS ON NOTICE**

**ITEM A12(1)**

**OUTSTANDING QUESTIONS ON NOTICE**

ACTION OFFICER

CHIEF EXECUTIVE OFFICER

DATE:

4 MARCH 2014

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ITEM	FROM MEETING	COMMENTS	ACTION BY
Nil			



## A - PROCEDURAL

# A13 MAYOR'S REPORT

A Mayor's Report is due to be presented on the 18 March 2014.



## A - PROCEDURAL

# A14 YOUTH COUNCIL REPORT

Youth Council will present a report to Council quarterly.



## **B –REPORT**

# **DELEGATES**



## **C1 - REPORT**

# **CHIEF EXECUTIVE OFFICER**



## **C2 - REPORT**

# **GENERAL MANAGER GOVERNANCE**

**ITEM C2.1****ASSEMBLY OF COUNCILLORS**

DIVISION:

GOVERNANCE

ACTION OFFICER:

GENERAL MANAGER GOVERNANCE

DATE:

4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
		✓		✓					

**OBJECTIVE**

To report on all assemblies of Councillors records received during the period 28 January 2014 to 4 February 2014.

**BACKGROUND**

Section 80A of the *Local Government Act 1989* requires a written record to be kept of all assemblies of Councillors, stating the names of all Councillors and Council staff attending, the matters considered and any conflict of interest disclosures made by a Councillor. These records must be reported, as soon as practicable, at an ordinary meeting of the Council and recorded in the minutes.

Below is a summary of all assembly of Councillors records received during the period 28 January 2014 to 4 February 2014.

<b>Assembly of Councillors summary of reports received between 28 January 2014 to 4 February 2014</b>		
<b>Date</b>	<b>Matters considered</b>	<b>Councillors and officers in attendance</b>
28 January 2014	<ol style="list-style-type: none"> <li>Desailly Street Office</li> <li>2014/15 Budget workshop</li> </ol>	Councillors Crossley, Rossetti, McCubbin, Davine, McIvor, Wenger, David Morcom, Chief Executive Officer Dean Morahan, Acting General Manager Built & Natural Environment Liz Collins, General Manager Governance John Websdale, General Manager Development Glenys Butler, General Manager Liveability Katy Cummins, Coordinator Media and Public Relations (Item 1) Lesley Fairhall, Manager Finance (Item 2)
3 February 2014	Art Gallery Advisory Group Minutes: <ol style="list-style-type: none"> <li>Acquisition of artworks</li> <li>Redevelopment of Gallery</li> </ol>	Councillor Davine Glenys Butler, General Manager Liveability Stephen Dempsey, Manager Arts & Culture Anton Vardy, Art Gallery Director Simon Gregg, Curator-Gippsland Art Gallery Sale Krystal Rawnsion, (Minute taker)

<b>Assembly of Councillors summary of reports received between 28 January 2014 to 4 February 2014</b>		
<b>Date</b>	<b>Matters considered</b>	<b>Councillors and officers in attendance</b>
4 February 2014	1. Councillors Diary Meeting	Councillors Rossetti, Crossley, Cleary, McCubbin, Wenger, Hole Liz Collins, General Manager Governance Gail Hogben, Executive Assistant Sharon Willison, Mayor & Councillor Support Officer
4 February 2014	1. Pre Council Meeting Agenda review (9.30am to 10.15am) 2. Gippsland Aviation Industry Policy and Opportunities Paper (10.15am to 11.05am) 3. Amendment C33 – Updated Flood Overlays (11.05am to 11.50am) 4. Office Relocation (1.20pm to 2.15pm) 5. December 2013 Quarterly Performance Report (2.15pm to 2.35pm)	Councillors Crossley, Rossetti, Cleary, McCubbin, Davine, Mclvor, Wenger, Hole David Morcom, Chief Executive Chris Hastie, General Manager Built & Natural Environment Liz Collins, General Manager Governance (not Items 2 & 3) John Websdale, General Manager Development Glenys Butler, General Manager Liveability Vanessa Ebsworth, Manager Organisation Development (Item 1) Daniel Gall, Coordinator Commercial Properties (Item 2) Sharyn Bolitho, Manager Economic Development (Item2) Joshua Clydesdale, Manager Land Use Planning (Item 3)

## **OPTIONS**

Council has the following options:

1. Note and receive the attached assembly of Councillors records; or
2. Not receive the attached assembly of Councillors records.

## **PROPOSAL**

That Council note and receive the attached assembly of Councillors records received during the period 28 January 2014 to 4 February 2014.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **LEGISLATIVE IMPACT**

The reporting of written records of assemblies of Councillors to the Council in the prescribed format complies with Section 80A of the *Local Government Act 1989*.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013-17 Theme 2 Organisational states the following strategic objective and related strategy:

Strategic Objective

*“An organisation that is responsive, flexible, honest, accountable and consistent.”*

Strategy 2.3

*“Ensure sound governance processes that result in responsive, ethical, transparent and accountable decision making.”*

This report supports the above Council Plan strategic objective and strategy.

## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

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### **RECOMMENDATION**

***That Council note and receive the attached assembly of Councillors records received during the period 28 January 2014 to 4 February 2014.***

## ASSEMBLY OF COUNCILLORS

**1. DATE OF MEETING:**

28/01/2014

**2. ATTENDEES:**

**Councillors**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
Cr Rossetti	✓		Cr McCubbin	✓	
Cr Davine	✓		Cr Mclvor	✓	
Cr Cleary		✓	Cr Wenger	✓	
Cr Crossley	✓		Cr Hole		✓
Cr Duncan		✓			

**Officers In Attendance**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
D. Morcom CEO	✓		G Butler, GML	✓	
L Collins, GMG	✓		J Websdale, GMD	✓	
C Hastie, GMB&NE		✓	D. Morahan, A/GMB&NE	✓	

**Others in attendance (list names and item in attendance for)**

Name	Item No.	Name	Item No.
Katy Cummins, Coordinator Media and PR	1	Lesley Fairhall, Manager Finance	2

**3. Matters/Items considered at the meeting (list):**

1. Desailly Street Office (9.00am to 9.45am)
2. 2014/15 Budget workshop (9.45am to 11.00am)

**4. Conflict of Interest disclosures made by Councillors and Officers:**

No Conflicts of Interests were declared.

## ASSEMBLY OF COUNCILLORS

1. DATE OF MEETING: **ART GALLERY ADVISORY GROUP MEETING**  
**03.02.2014 6.00PM ART GALLERY LIBRARY**

2. ATTENDEES (list only names of Councillors and/or staff):  
 (A meeting of an advisory committee of the Council where at least one Councillor is present; or a planned or scheduled meeting of at least half of the Councillors and 1 staff member)

### Councillors

Name	In attendance (tick)	Name	In attendance (tick)
Cr Crossley	✓	Cr McCubbin	✓
Cr Rossetti	✓	Cr McIvor	✓
Cr Cleary	✓	Cr Wenger	✓
Cr Davine	✓	Cr Hole	✓
Cr Duncan	✓		

### Officers In Attendance

Name	In attendance (tick)	Name	In attendance (tick)
D Morcom, CEO	✓	G Butler, GML	✓
L Collins, GMG	✓	J Websdale, GMD	✓
C Hastie, GMB&NE	✓		

### Others in attendance (list names and item in attendance for)

Name	Item No.	Name	Item No.
ANTON VARDY	1, 2		
STEPHEN DEMPSEY	1, 2		
SIMON GREGG	1, 2		
KRYSTAL RAWNISON (MINUTE SECRETARY)			

3. Matters/Items considered at the meeting (list):
1. ACQUISITION OF ARTWORKS
  - 2.
  3. REDEVELOPMENT OF GALLERY
  - 4.
  - 5.
  - 6.
  - 7.
  - 8.
  - 9.
  - 10.
4. Conflict of Interest disclosures made by Councillors:  
 (The Councillor must leave the meeting whilst the matter is being considered)  
 Include Councillor Name and Item number:  
**NONE**

## ASSEMBLY OF COUNCILLORS

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**1. DATE OF MEETING:**

04/02/2014

**2. ATTENDEES:**

**Councillors**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
Cr Crossley	√		Cr McCubbin	√	
Cr Rossetti	√		Cr Mclvor		√
Cr Cleary	√		Cr Wenger	√	
Cr Davine		√	Cr Hole	√	
Cr Duncan		√			

**Officers In Attendance**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
D Morcom, CEO			G Butler, GML		
L Collins, GMG	√		J Websdale , GMD		
C Hastie, GMB&NE					

**Others in attendance (list names and item in attendance for)**

Name	Item No.	Name	Item No.
Gail Hogben	1		
Sharon Willison	1		

**3. Matters/Items considered at the meeting (list):**

1, Councillors' Diary Meeting

**4. Conflict of Interest disclosures made by Councillors:**

NIL

## ASSEMBLY OF COUNCILLORS

**1. DATE OF MEETING:**

04/02/2014

**2. ATTENDEES:**

**Councillors**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
Cr Rossetti	✓		Cr McCubbin	✓	
Cr Davine	✓		Cr Mclvor (From 10am)	✓	
Cr Cleary	✓		Cr Wenger	✓	
Cr Crossley	✓		Cr Hole	✓	
Cr Duncan		✓			

**Officers In Attendance**

Name	In attendance (tick)		Name	In attendance (tick)	
	Yes	No		Yes	No
D. Morcom CEO	✓		G Butler, GML	✓	
L Collins, GMG (Not 2 & 3)	✓		J Websdale, GMD	✓	
C Hastie, GMB&NE	✓				

**Others in attendance (list names and item in attendance for)**

Name	Item No.	Name	Item No.
Vanessa Ebsworth, Manager Org Dev	1	Sharyn Bolitho, Manager Economic Development	2
Daniel Gall, Coordinator Commercial Properties	2	Josh Clydesdale, Manager Land Use Planning	3

**3. Matters/Items considered at the meeting (list):**

1. Pre Council Meeting Agenda review (9.30am to 10.15am)
2. Gippsland Aviation Industry Policy and Opportunities Paper (10.15am to 11.05am)
3. Amendment C33 – Updated Flood Overlays (11.05am to 11.50am)
4. Office Relocation (1.20pm to 2.15pm)
5. December 2013 Quarterly Performance Report (2.15pm to 2.35pm)

**4. Conflict of Interest disclosures made by Councillors and Officers:**

No Conflicts of Interests were declared.



## C3 - REPORT

# GENERAL MANAGER DEVELOPMENT

**ITEM C3.1****PLANNING DECISIONS**

DIVISION:

DEVELOPMENT

ACTION OFFICER:

MANAGER LAND USE PLANNING

DATE:

4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
	✓	✓	✓	✓			✓		

**OBJECTIVE**

To provide a report to Council on recent planning permit trends and planning decisions made under delegation by Statutory Planners during the month of January 2014 for information.

**BACKGROUND**

Statutory Planners have delegated authority under the *Planning and Environment Act 1987* to make planning decisions in accordance with the *Planning and Environment Act 1987* and the Wellington Planning Scheme including the issue of: planning permits, amended permits, extensions of time, refusal of planning permits and notices of decision to grant a planning permit.

A copy of planning permit decisions made between 1 January and 31 January 2014 is included in Attachment 1.

Attachment 2 provides an overview of recent planning permit trends including decisions made, efficiency of decision making and the estimated value of approved development (derived from monthly Planning Permit Activity Reporting data).

**OPTIONS**

Council may choose to note this report, alternatively, Council may choose to seek further information and refer this report to another meeting.

**PROPOSAL**

That Council note the report on recent planning permit trends and planning application determinations between 1 January and 31 January 2014.

**CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

**COMMUNICATION IMPACT**

The monthly report communicates information about planning trends and determinations including the issue of planning permits, amended permits, refusal of planning permits and notices of decision to grant a planning permit.

## **LEGISLATIVE IMPACT**

All planning decisions have been processed and issued in accordance with the *Planning and Environment Act 1987* and the Wellington Planning Scheme.

## **COUNCIL POLICY IMPACT**

All planning decisions have been issued after due consideration of relevant Council policy, including Council's Heritage Policy and the requirements of the Wellington Planning Scheme.

## **COUNCIL PLAN**

The Council Plan 2013–2017 Theme 5 Land Use Planning states the following strategic objective and related strategy:

Strategic Objective

*"Appropriate and forward looking land use planning that incorporates sustainable growth and development."*

Strategy 5.2

*Provide user friendly, accessible planning information and efficient planning processes.*

This report supports the above Council Plan strategic objective and strategy.

## **PLANNING POLICY IMPACT**

All reported planning decisions have been issued after due consideration of the State and Local Planning Policy Framework in the Wellington Planning Scheme.

## **ENVIRONMENTAL IMPACT**

Planning decisions are made in accordance with the relevant environmental standards to ensure that environmental impacts are minimised.

## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

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## **RECOMMENDATION**

***That Council note the report on recent planning permit trends and Planning Application Determinations between 1 January and 31 January 2014.***

PLANNING APPLICATION DETERMINATIONS  
BETWEEN 1/01/2014 AND 31/01/2014

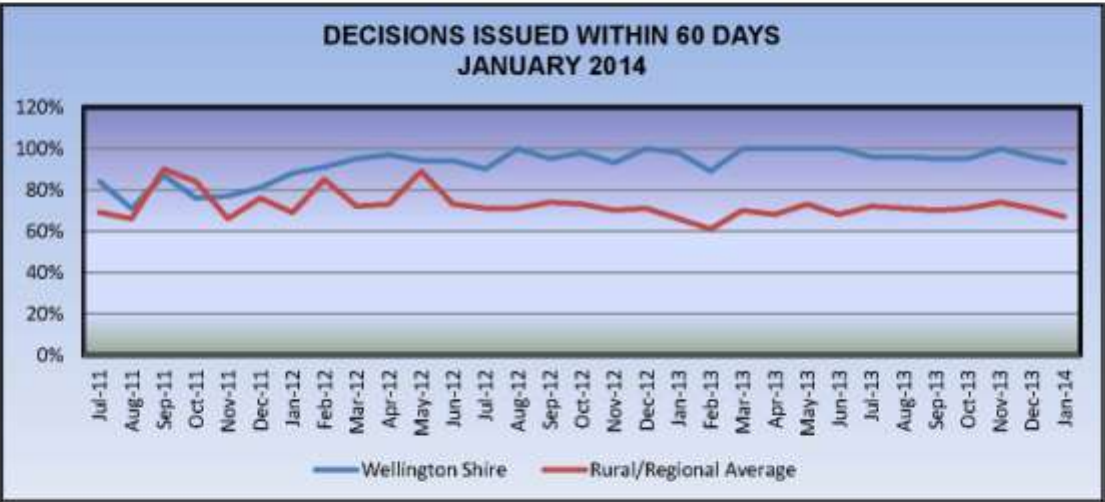
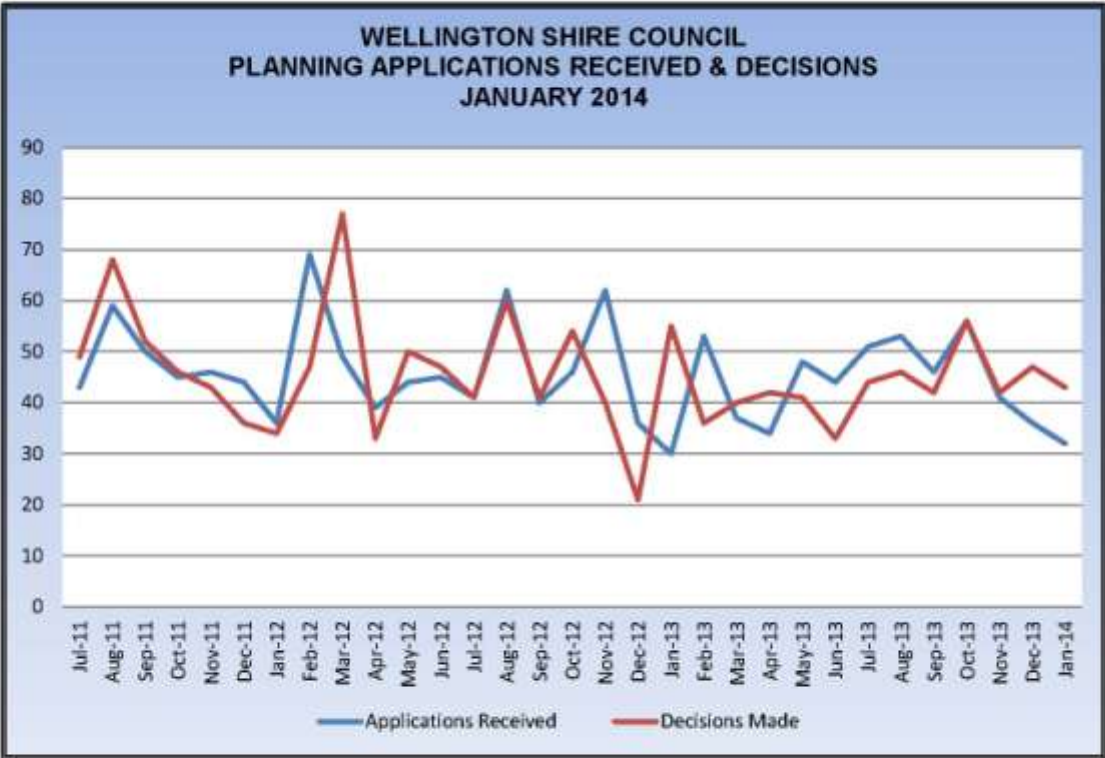
<b>Application No/Year</b>	<b>Date Received</b>	<b>Property Title &amp; Address</b>	<b>Proposal</b>	<b>Status</b>
191-2/2010	2/01/2014	Assessment No. 398917 LOT: 1 PS: 537557D R/15 AUBREYS RD SEATON	Amendment to permit for staged construction of a dwelling.	No Permit Required  3/01/2014
286-3/2011	9/01/2014	Assessment No. 85381 LOT: A PS: 700895Y PRINCES HWY SALE	Amendment to permit for 147 R1Z lot subdivision.	Permit Issued by Delegate of Resp/Auth 10/01/2014
143-2/2012	23/01/2014	Assessment No. 47795 LOT: 2 PS: 545572M 1-11 REEVE ST SALE	Amendment to permit for use and development of a police station.	Permit Issued by Delegate of Resp/Auth 24/01/2014
223-3/2012	26/11/2013	Assessment No. 347971 PTL: 2 PS: 132147 R/9 MILLS LANE MAFFRA	Amendment to permit for construction of three sheds.	Permit Issued by Delegate of Resp/Auth 23/01/2014
295-2/2012	22/11/2013	Assessment No. 318931 LOT: 1 PS: 703152H 18 MACFARLANE ST HEYFIELD	Amendment to permit for MUZ subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 17/01/2014
402-1/2012	30/10/2012	Assessment No. 285213 PCA: 26B1 MCCLOUGHLINS BEACH MCCLOUGHLINS BEACH	Telecommunications Facility.	Refusal Issued by the Responsible Auth 8/01/2014
102-2/2013	7/01/2014	Assessment No. 307090 LOT: 2 PS: 637166M 95 JOHNSON ST MAFFRA	Amendment to permit for enclosing a wall on front of loading dock.	Permit Issued by Delegate of Resp/Auth 13/01/2014
181-1/2013	6/06/2013	Assessment No. 328385 LOT: 2 PS: 644814 MUSTONS LANE HEYFIELD	RLZ2 subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 8/01/2014
187-1/2013	13/06/2013	Assessment No. 85381 LOT: 1 PS: 717784 1 ASHTON ST SALE	R1Z subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 6/01/2014
264-2/2013	9/01/2014	Assessment No. 208538 PCA: 100 R/368 WILLUNG RD ROSEDALE	Amend permit for use and development of second dwelling.	Permit Issued by Delegate of Resp/Auth 13/01/2014
282-1/2013	20/08/2013	Assessment No. 233940 LOT: 241 PS: 50201 88 LAKE ST LOCH SPORT	Use and development of a single dwelling and shed.	Permit Issued by Delegate of Resp/Auth 16/01/2014

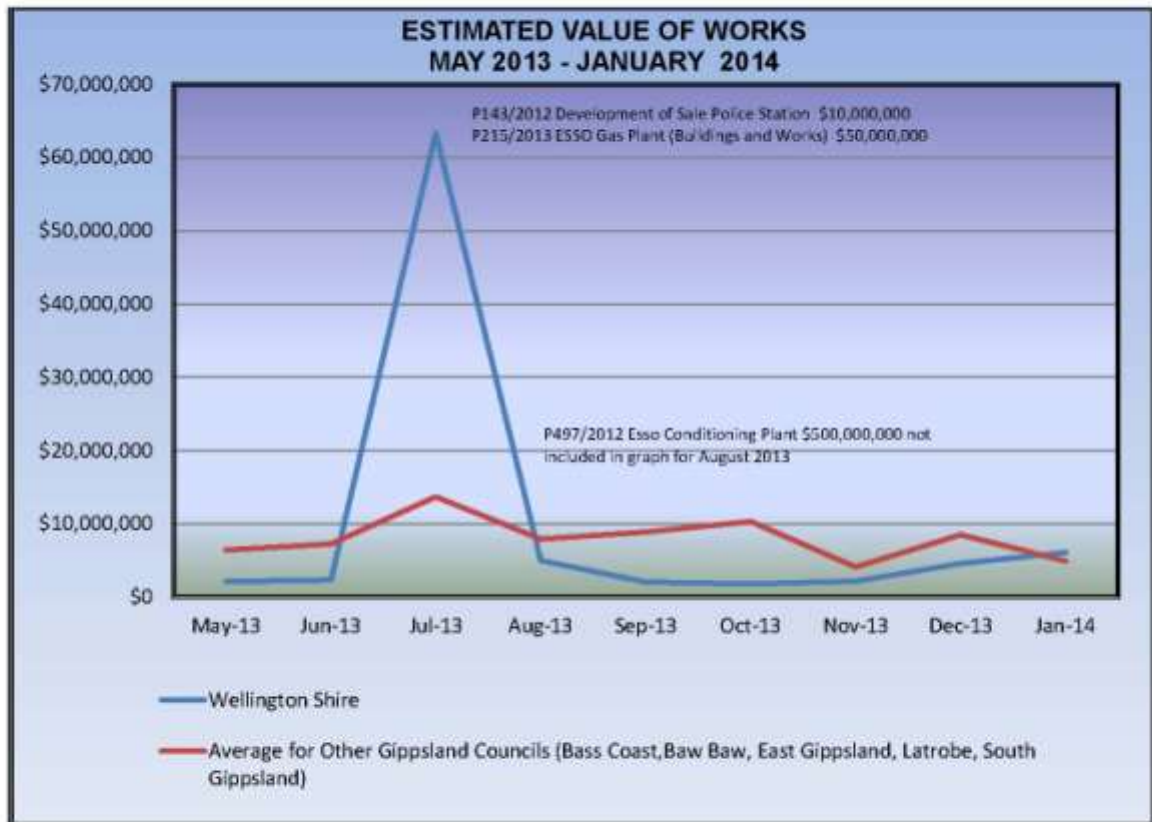
<b>Application No/Year</b>	<b>Date Received</b>	<b>Property Title &amp; Address</b>	<b>Proposal</b>	<b>Status</b>
284-2/2013	17/12/2013	Assessment No. 206839 LOT: 1 PS: 207739E R/855 SEASPRAY RD LONGFORD	Amendment to permit for use and development for racing dog keeping.	Permit Issued by Delegate of Resp/Auth 9/01/2014
307-1/2013	2/09/2013	Assessment No. 104992 LOT: 2 PS: 540014B R/26 HOPKINS RD FULHAM	Use and development of a dog breeding and rearing facility.	Permit Issued by Delegate of Resp/Auth 2/01/2014
319-1/2013	12/09/2013	Assessment No. 394056 LOT: 2 PS: 500995K LAGOON LANE BOISDALE	Buildings/works associated with a telecommunications facility.	Permit Issued by Delegate of Resp/Auth 15/01/2014
330-1/2013	23/09/2013	Assessment No. 40881 LOT: 2 PS: 703132P 144B GUTHRIDGE PDE SALE	Use and development of carparking and landscaping.	Permit Issued by Delegate of Resp/Auth 17/01/2014
332-1/2013	23/09/2013	Assessment No. 200162 LOT: 1 PS: 330765 R/309 GARRETT'S RD LONGFORD	Removal of native vegetation.	Withdrawn 14/01/2014
338-1/2013	25/09/2013	Assessment No. 276907 LOT: 1 PS: 134544 4 BRISBANE ST PORT ALBERT	Buildings and works associated with restoration of a dwelling.	Permit Issued by Delegate of Resp/Auth 9/01/2014
361-1/2013	15/10/2013	Assessment No. 202887 CA: R R/823 LONGFORD-LOCH DUTSON	Buildings/works associated with construction of an explosives bunker.	Permit Issued by Delegate of Resp/Auth 17/01/2014
370-1/2013	22/10/2013	Assessment No. 310375 LOT: 2 PS: 316757D 87 POWERSCOURT ST MAFFRA	Buildings and works associated with installation of an LPG gas tank.	Permit Issued by Delegate of Resp/Auth 9/01/2014
374-1/2013	24/10/2013	Assessment No. 182808 LOT: 73 PS: 82059 2294 SHORELINE DVE THE HONEYSUCKLES	Use and development of a dwelling.	Permit Issued by Delegate of Resp/Auth 29/01/2014
375-2/2013	11/12/2013	Assessment No. 109256 PC: 153530 21 MAIN ST COWWARR	Amendment to permit associated with an extension.	Permit Issued by Delegate of Resp/Auth 20/01/2014
390-1/2013	31/10/2013	Assessment No. 236661 LOT: 1917 PS: 65192 352 NATIONAL PARK RD LOCH SPORT	Use and development of a dwelling.	Permit Issued by Delegate of Resp/Auth 9/01/2014
399-1/2013	8/11/2013	Assessment No. 103895 CA: 40 SEC. G R/243 NAMBROK HALL NAMBROK	FZ subdivision of the land into 2 lots (house excision).	Permit Issued by Delegate of Resp/Auth 6/01/2014

<b>Application No/Year</b>	<b>Date Received</b>	<b>Property Title &amp; Address</b>	<b>Proposal</b>	<b>Status</b>
400-1/2013	8/11/2013	Assessment No. 102723 CA: 27 SEC: G R/427 KILLEENS RD NAMBROK	FZ subdivision of the land into 2 lots (house excision).	Permit Issued by Delegate of Resp/Auth 6/01/2014
402-1/2013	8/11/2013	Assessment No. 238477 LOT: 687 PS: 53109 41 NATIONAL PARK RD LOCH SPORT	Buildings and works associated with construction of a shed.	Permit Issued by Delegate of Resp/Auth 9/01/2014
404-1/2013	15/11/2013	Assessment No. 386375 LOT: 5 PS: 346951N BUCKLEYS ISLAND RD YARRAM	LDRZ subdivision of the land into 4 lots.	Permit Issued by Delegate of Resp/Auth 20/01/2014
413-1/2013	22/11/2013	Assessment No. 82909 PC: 173099 R/529 COBAINS RD COBAINS	Use and development of a dwelling.	Permit Issued by Delegate of Resp/Auth 28/01/2014
416-1/2013	26/11/2013	Assessment No. 342964 LOT: 3 PS: 131036 BACK VALENCIA CREEK BOISDALE	Buildings and works associated with construction of a shed.	Permit Issued by Delegate of Resp/Auth 17/01/2014
419-1/2013	27/11/2013	Assessment No. 200360 CA: 16A SEC: B GARRETT'S RD LONGFORD	Building/works for construction of a truck loading facility.	Permit Issued by Delegate of Resp/Auth 31/01/2014
426-1/2013	4/12/2013	Assessment No. 258087 LOT: 1068 PS: 40160 42-44 FIRST ST PARADISE BEACH	Buildings and works associated with placement of containers.	Permit Issued by Delegate of Resp/Auth 30/01/2014
428-1/2013	6/12/2013	Assessment No. 361386 LOT: 2 PS: 410562U R/26 SANDY CREEK RD MAFFRA	Removal of native vegetation.	Permit Issued by Delegate of Resp/Auth 9/01/2014
432-1/2013	9/12/2013	Assessment No. 271940 PC: 360538F R/4778 HYLAND HWY WON WRON	Buildings and works associated with the construction of a shed.	Permit Issued by Delegate of Resp/Auth 23/01/2014
434-1/2013	13/12/2013	Assessment No. 90993 LOT: 2 PS: 99943 R/207 BRIAGOLONG RD STRATFORD	FZ/RLZ2 subdivision of the land into 3 lots.	Permit Issued by Delegate of Resp/Auth 30/01/2014
435-1/2013	13/12/2013	Assessment No. 31740 LOT: 3 PS: 22176 191 STAWELL ST SALE	R1Z subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 22/01/2014
437-1/2013	16/12/2013	Assessment No. 422287 PCA: 5 SEC: 9 STATION ST MAFFRA	Use and development of an emergency services facility.	Permit Issued by Delegate of Resp/Auth 23/01/2014

<b>Application No/Year</b>	<b>Date Received</b>	<b>Property Title &amp; Address</b>	<b>Proposal</b>	<b>Status</b>
438-1/2013	16/12/2013	Assessment No. 425207 LOT: 1 PS: 649532V R/50 LOWER HEART RD SALE	Building and works associated with the construction of a shed.	Permit Issued by Delegate of Resp/Auth 2/01/2014
444-1/2013	20/12/2013	Assessment No. 36723 LOT: 7 PS: 18518 184 CUNNINGHAME ST SALE	Buildings and works associated with extension to an existing dwelling.	Permit Issued by Delegate of Resp/Auth 24/01/2014
445-1/2013	23/12/2013	Assessment No. 348722 LOT: 5 TP: 899383A SELLINGS RD BOISDALE	Use and development of a dwelling and associated outbuilding.	Permit Issued by Delegate of Resp/Auth 31/01/2014
449-1/2013	23/12/2013	Assessment No. 12195 LOT: 2 PS: 703138B 2/472-474 RAYMOND ST SALE	Use and development of land for accommodation/construction of signage.	Withdrawn 14/01/2014
453-1/2013	24/12/2013	Assessment No. 385997 LOT: 3 PS: 344829V R/40 BREWERS HILL RD MAFFRA	Building and works associated with the construction of a roof.	Permit Issued by Delegate of Resp/Auth 8/01/2014
4-1/2014	3/01/2014	Assessment No. 192013 LOT: 2 PS: 725178 2/54-56 PRINCE ST ROSEDALE	B1Z subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 29/01/2014
5-1/2014	6/01/2014	Assessment No. 191148 LOT: 1 TP: 878539N 35 LYONS ST ROSEDALE	Application for a liquor license.	Permit Issued by Delegate of Resp/Auth 9/01/2014
9-1/2014	14/01/2014	Assessment No. 91033 LOT: 2 PS: 118764 R/255 BRIAGOLONG RD STRATFORD	FZ/RLZ2 subdivision of the land into 2 lots.	Permit Issued by Delegate of Resp/Auth 29/01/2014

**Total No of Decisions Made: 43**





**ITEM C3.2****AMENDMENT C91 – RESIDENTIAL ZONES IMPLEMENTATION**

DIVISION:

DEVELOPMENT

ACTION OFFICER:

MANAGER LAND USE PLANNING

DATE:

4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
		✓	✓	✓				✓	

**OBJECTIVE**

That Council request the Minister for Planning to prepare and approve Amendment C91 to the Wellington Planning Scheme to translate all land currently within the Residential 1 Zone to the General Residential Zone.

**BACKGROUND**

The Residential Growth Zone (RGZ), General Residential Zone (GRZ) and Neighbourhood Residential Zone (NRZ) were formally introduced into the Victoria Planning Provisions by the Minister for Planning through Amendment V8 on 1 July 2013. The State Government requires that these new zones (where appropriate) be introduced into relevant planning schemes to replace the existing suite of residential zones (Residential 1 Zone, Residential 2 Zone and Residential 3 Zone) by 1 July 2014.

In the case of the Wellington Shire, the Residential 1 Zone (R1Z) is currently the only zone applied to residential areas and which will be directly translated to the new GRZ. According to the State Government, 'reformed residential zones for Victoria have been introduced to better respond to present-day requirements and will give greater clarity about the type of development that can be expected in any residential area'.

The GRZ respects and preserves neighbourhood character while allowing modest housing growth and diversity. This objective is generally consistent with the current R1Z. Further details of the new GRZ are included in Attachment 1 and are available via the Department of Transport, Planning and Local Infrastructure website below:

<http://www.dpcd.vic.gov.au/planning/theplanningsystem/improving-the-system/new-zones-for-victoria/new-and-reformed-residential-zones>

It is noted that an update on the zone reforms was provided in the fourth quarter strategic land use planning projects update reported to Council on 17 December 2013.

The State Government is proposing to make a direct translation of land currently zoned R1Z to the GRZ in July 2014. While Council has the option of waiting for the Minister for Planning to undertake the translation, this report allows Council and the community to be more clearly aware of the proposed introduction of the GRZ into the Wellington Planning Scheme and to allow the amendment process to commence prior to July 2014.

Some municipalities (mostly metropolitan) are in the process of completing housing strategies, neighbourhood character studies and other strategic planning work to facilitate the application of the RGZ or NRZ. The absence of any strategic justification to facilitate the application of the RGZ or NRZ within Wellington Shire supports the proposed direct translation of R1Z land to the GRZ within the Wellington Planning Scheme.

A direct translation will allow Council's Strategic Land Use Planning Project Review Group to fully consider the relevant costs and benefits of advancing (or not advancing) the strategic planning work associated with the application of alternative residential zones at a later date.

## **OPTIONS**

Council has the following options:

1. Request the Minister for Planning to prepare and approve Amendment C91 to the Wellington Planning Scheme to translate all land currently within the Residential 1 Zone to the General Residential Zone; or
2. Wait for the Minister for Planning to make a direct translation of all land currently within the Residential 1 Zone to the General Residential Zone within the Wellington Planning Scheme; or
3. Seek further information regarding the residential zone reforms.

## **PROPOSAL**

That Council request the Minister for Planning to prepare and approve Amendment C91 to the Wellington Planning Scheme to translate all land currently within the Residential 1 Zone to the General Residential Zone.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **LEGISLATIVE IMPACT**

Amendment C91 will be prepared and approved by the Minister for Planning in accordance with the requirements of the *Planning and Environment Act 1987*.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013–17 Theme Land Use Planning states the following strategic objective and related strategy:

Strategic Objective

*Appropriate and forward looking land use planning that incorporates sustainable growth and development*

Strategy 5.1

*Ensure Land Use Policies and Plans utilise an integrated approach to guide appropriate land use and development.*

This report supports the above Council Plan strategic objective and strategy.

## **PLANNING POLICY IMPACT**

The application of the GRZ (to replace the current R1Z) will change the Wellington Planning Scheme. Future land use and development in affected areas will need to comply with the requirements of the new GRZ (refer to Attachment 2).

## **CONSULTATION**

The State Government undertook a comprehensive consultation process during 2012 before finalising and introducing the new residential zones into the Victoria Planning Provisions. The Minister for Planning will now prepare and approve the amendments required to apply the new zones. Affected landowners in the Wellington Shire wishing to use or develop land will thereafter need to comply with the requirements of the new GRZ.

## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

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### **RECOMMENDATION**

***That Council request the Minister for Planning to prepare and approve Amendment C91 to the Wellington Planning Scheme to translate all land currently within the Residential 1 Zone to the General Residential Zone.***

# Applying the Residential Zones

This practice note provides information and guidance to councils about:

- the purposes and features of the residential zones
- how to apply the residential zones
- the schedules to the residential zones.

## The reformed zones

In July 2013 amendments to residential zones were introduced into the *Victoria Planning Provisions (VPP)*. This included:

- the introduction of three new zones, the General Residential Zone (GRZ), Neighbourhood Residential Zone (NRZ) and Residential Growth Zone (RGZ) to replace the Residential 1, 2 and 3 zones
- reforms to the Mixed Use, Low Density and Township Zones
- consequential changes, including changes to Clauses 54, 55 and 56 'ResCode' to ensure consistency between the reformed residential zones and the VPP.

The Department of Transport, Planning and Local Infrastructure website contains detailed information on Amendments V8 and VC100.

## A suite of residential zones

The residential zones are a suite of statutory tools for a planning authority to implement state and local policies and strategies for housing and residential growth in their planning scheme to better plan for residential development.

Strategic use of the residential zones can give greater clarity about the type of development that can be expected in a residential area, allow a broader range of activities to be considered and better manage growth.

The six residential zones are:

- Mixed Use Zone (MUZ) enables new housing and jobs growth in mixed use areas
- Residential Growth Zone (RGZ) enables new housing growth and diversity
- General Residential Zone (GRZ) enables moderate housing growth and diversity while respecting urban character
- Neighbourhood Residential Zone (NRZ) restricts housing growth in areas identified for urban preservation

- Township Growth Zone (TZ) enables moderate housing growth while respecting urban character in small towns
- Low Density Residential Zone (LDRZ) enables low density housing.

The table on page 3 provides details about each of the residential zones, their potential application and key planning requirements.

There are other zones in the VPP that allow residential development including the Commercial 1 Zone, Comprehensive Development Zone, Activity Centre Zone, Capital City Zone and the Docklands Zone.

### Applying the residential zones

Applying the residential zones should be underpinned by clearly expressed planning policies in the planning scheme. The State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF) in the planning scheme should be the starting point for deciding whether the council's strategic objectives are still valid and sound, or whether new strategic work is required. Alternatively, a council may have undertaken relevant strategic planning for their residential areas.

### Plan Melbourne

Plan Melbourne is the Victorian Government's vision for the city to 2050. Application of the residential zones will be required to implement its strategic directions.

### State Planning Policy Framework

The SPPF provides a context for spatial planning and decision making by planning and responsible authorities. The SPPF in conjunction with relevant policies in the LPPF provide key guidance for planning authorities to implement residential zones within a municipality.

### Local Planning Policy Framework

The reforms made to the residential zones in July 2013 provide more flexibility and discretion allowing permit applications for a broad range of uses. Councils may wish to create or amend existing local policies to assist in the exercise of this discretion and fully implement their strategic objectives.

A council should consider whether a local policy is necessary to help establish realistic expectations about how land in an area may be used and developed, and provide a sound basis for making consistent, strategic decisions. Refer to Planning Practice Note 8: Writing a Local Planning Policy for more guidance on using local planning policies.

### Strategic Planning

Sound strategic planning for residential areas is essential to ensuring that land use and development achieves the desired outcomes for an area. It can help ensure that:

- use and development in residential areas fits into the overall strategic planning of the municipality
- housing development is consistent with the housing needs and housing strategies
- new housing demand, growth and diversity can be accommodated
- in identified areas housing growth may be restricted or moderated
- in identified areas new development respects and preserves existing neighbourhood character
- planning for residential areas takes into account matters such as access to infrastructure, transport, employment, commercial and community facilities, heritage, environmental constraints, and hazards such as bushfire and contaminated land
- the most appropriate residential zone is used to achieve strategic planning objectives.

Many councils have already undertaken strategic planning and resource management studies for their residential areas and used this work to articulate strategic objectives in their Municipal Strategic Statements (MSS). New strategic work may not be required if existing policies address the key residential land use issues in the municipality and adequately reflect the planning outcomes that the council wants to achieve.

## Residential Zones

	RUZ NEED USE ZONE	RGZ RESIDENTIAL GROWTH ZONE	GRZ GENERAL RESIDENTIAL ZONE	NRZ NEIGHBOURHOOD RESIDENTIAL ZONE	TZ TOWNSHIP ZONE	LRZ LOW DENSITY RESIDENTIAL ZONE
WHAT IS THE ROLE OF THE ZONE?	Enables new housing and jobs growth in road side areas.	Enables new housing growth and diversity.	Support and preserve urban character while enabling moderate housing growth and housing diversity.	Protects housing growth in areas identified for urban preservation.	Provides for residential and other uses in small towns. Enables moderate housing growth.	Enables low density housing.
WHERE WILL IT BE USED?	In areas with a mix of residential and non-residential development. In local neighbourhood centres undergoing renewal and around train stations, where appropriate.	In appropriate locations near activity areas, train stations and other areas suitable for increased housing activity.	In non-residential areas where moderate growth and diversity of housing is provided, it is consistent with existing neighbourhood character.	In areas where single dwellings prevail and change is not identified, such as areas of recognised neighbourhood character or environmental or landscape significance.	In townships.	On the fringe of urban areas and townships where sewerage may not be available.
DOES RESCODE APPLY?	<b>Yes</b> to and including 4 stories.	<b>Yes</b> to to and including 4 stories.	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
WHAT SORT OF HOUSING CAN BE EXPECTED?	<b>High and medium density housing</b> A mixture of townhouses and apartment style housing up to three storeys, and higher where appropriate.	<b>Medium density housing</b> A mixture of townhouses and apartments with underground car parking.	<b>Single dwellings and some medium density housing</b> A mixture of single dwellings, dual occupancies with some villa units and to include circumstances town houses, where appropriate.	<b>Single dwellings and dual occupancies under some circumstances</b>	<b>Single dwellings and some medium density housing</b> A mixture of single dwellings, dual occupancies, villa units and town houses.	<b>Single dwellings</b>
DOES THE ZONE SET A MAXIMUM BUILDING HEIGHT FOR HOUSING?	<b>No</b> But a maximum building height can be specified.	<b>Yes, 13.5 metres</b> But a higher or lower maximum building height can be set by a council.	<b>Yes, 9 metres</b> But a higher or lower maximum building height can be set by a council.	<b>Yes, 8 metres mandatory</b> Can be varied by council with approval from the Minister for Planning.	<b>Yes, 9 metres</b> But a higher or lower maximum building height can be set by a council.	<b>No</b>
CAN A PERMIT BE GRANTED TO EXCEED THE MAXIMUM BUILDING HEIGHT?	<b>Yes</b> When approved by a council.	<b>Yes</b> Except where a higher or lower maximum building height has been set which cannot be exceeded.	<b>Yes</b> Except where a higher or lower maximum building height has been set which cannot be exceeded.	<b>No</b> Except where a higher or lower maximum building height has been set which cannot be exceeded.	<b>Yes</b> Except where a higher or lower maximum building height has been set which cannot be exceeded.	<b>No</b>
IS A STRUCTURE PLAN OR DESIGN FRAMEWORK REQUIRED FOR THE ZONE TO BE APPLIED?	<b>No</b> The preferred future use of land and built form may be specified if necessary.	<b>No</b> The preferred future built form may be specified if necessary.	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>

If the MSS objectives and local policies no longer provide clear guidance for decision making, or there are strategic gaps, new strategic work may be required. Before commencing new strategic work, the planning authority should review the policy components of the planning scheme and other relevant studies.

## Principles and criteria for applying the residential zones

The following tables can assist councils in identifying principles and criteria to apply the residential zones when preparing a planning scheme amendment.

**Table 1 Principles for applying the residential zones**

RESIDENTIAL ZONE			PRINCIPLES IN APPLYING ZONES
Zone	Purpose	Likely application	Principles can be deduced from the purposes of the zones (and should be considered together)*
MUZ	Enables new housing and jobs growth in mixed use areas	In areas with a mix of residential and non-residential development.  In local neighbourhood centres undergoing renewal and around train stations, where appropriate.	<ul style="list-style-type: none"> <li>• Areas encouraging a range of residential, commercial, industrial and other uses</li> <li>• Areas to provide for housing at higher densities and higher built form that responds to the existing or preferred neighbourhood character</li> </ul>
RGZ	Enables new housing growth and diversity in appropriate locations	In appropriate locations near activities areas, town centres, train stations and other areas suitable for increased housing activity such as smaller strategic redevelopment sites	<ul style="list-style-type: none"> <li>• Locations offering good access to services, transport and other infrastructure</li> <li>• Areas which provide a transition between areas of more intensive use and development and areas of restricted housing growth</li> <li>• Areas where there is mature market demand for higher density outcomes</li> </ul>
GRZ	Respects and preserves neighbourhood character while allowing moderate housing growth and diversity	In most residential areas where moderate growth and diversity of housing that is consistent with existing neighbourhood character is to be provided	<ul style="list-style-type: none"> <li>• Areas with a diversity of housing stock, diversity of lot sizes and a more varied neighbourhood character</li> <li>• Areas where moderate housing growth and housing diversity is encouraged</li> </ul>

RESIDENTIAL ZONE			PRINCIPLES IN APPLYING ZONES
Zone	Purpose	Likely application	Principles can be deduced from the purposes of the zones (and should be considered together)*
NRZ	Restricts housing growth in areas identified for urban preservation	In areas where single dwellings prevail and change is not identified, such as areas of recognised neighbourhood character, heritage environmental or landscape significance	<ul style="list-style-type: none"> <li>• Areas with a neighbourhood character that is sought to be retained</li> <li>• Areas where more than 80% of lots currently accommodate detached dwellings</li> <li>• Areas with Neighbourhood Character Overlays</li> <li>• Residential areas with Heritage Overlays (such as larger heritage precincts, rather than individually recognised heritage sites)</li> <li>• Areas of identified environmental or landscape significance.</li> <li>• Areas which may not have good supporting transport infrastructure or other infrastructure, facilities and services and are not likely to be improved in the medium to longer term</li> </ul>
TZ	Provides for residential and other uses in small towns. Enables modest housing growth Likely application	In townships	<ul style="list-style-type: none"> <li>• Areas in small towns for residential development and educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.</li> <li>• Areas with Neighbourhood Character Overlays or policies</li> </ul>
LDRZ	Enables low density housing	On the fringe of urban areas and townships where sewerage may not be available	<ul style="list-style-type: none"> <li>• Areas for low-density residential development.</li> </ul>

\*Other principles and criteria may be required by councils to suit local circumstances.

Table 2 Criteria for applying the NRZ, GRZ and RGZ

Criteria*	Applicable to:			
	Neighbourhood Residential Zone (low levels of residential change)	General Residential Zone (moderate levels of residential change)	Residential Growth Zone (high levels of residential change)	
<b>Strategic</b>				
1	Adopted housing and development strategy (not required for conversion only to GRZ)	Yes	No	Yes
2	Identified in Activities Area structure plan / policy	No	No	Yes
3	Brownfield/urban renewal site/ area	No	No	Yes
4	Commercial or industrial land for redevelopment not in Activities Area (strategic justification for rezoning required)	No	Yes	Yes
<b>Context</b>				
5	Good access to transport choices (including walkability, public transport, cycling, road access)	No	No	Yes
6	Good access to employment options	No	No	Yes
7	Good access to local shopping	No	No	Yes
8	Good access to local community services	No	No	Yes
<b>Character</b>				
9	Level of development activity (existing and desired)	Low	Low/Moderate	High
10	Identified areas for growth and change (such as evidenced through DDO or similar)	No	No	Yes
11	Retention of identified neighbourhood character (such as evidenced through HO, NCO, DDO, significant intactness)	Yes	Yes	No
12	Heritage areas which impose significant constraints on increased housing development	Yes	Yes	No
13	Existing landscape or environmental character/ constraints (evidenced through SLO, ESO, local policy)	Yes	Yes	No
<b>Constraints</b>				
14	Risk associated with known hazard (evidenced through BMO, LSIO or EMO for fire, flood and landslip or other constraints identified through EPA hazard buffers or similar)	High	Low	Low

\*There is no specific weighting to the criteria. This should be applied by councils to suit local circumstances

## Implementing strategic objectives

A planning authority may need to use a number of VPP tools to successfully implement residential policy objectives. There are circumstances where more than one zone or overlay will be needed to deliver the desired outcome. Councils should think laterally about the mix of policies and controls required to achieve their objectives, and be prepared to consider using a range of tools.

In deciding which residential zone should apply, the following principles should be considered:

- the zone should support and give effect to the SPPF
- the zone should broadly support all relevant policy areas in the MSS (for example, economic, housing, environmental and infrastructure policy)
- the rationale for applying the zone should be clearly discernible in the LPPF
- the zone should be applied in a way that is consistent with its purpose
- the zone should give effect to any adopted housing strategy
- a balanced approach being utilised, promoting residential growth, moderate residential change and limited residential change to provide outcomes which achieve reasonable housing choice and diversity in a municipality
- the requirements of any applicable Minister's Direction must be met.

A planning authority may choose to apply all six residential zones to residential land in a municipality, but this may not be appropriate in all circumstances. Where the new residential zones are sought to be applied by a planning authority, and to achieve a balanced approach and reasonable housing choice and diversity outcomes, the Residential Growth, General Residential and Neighbourhood Residential Zones should be applied simultaneously.

## The residential zones in summary

### Mixed Use Zone (MUZ) Clause 32.04

The Mixed Use Zone enables new housing and jobs growth in mixed use areas. The zone provides for a range of residential, commercial, industrial and other uses and provides for housing at higher densities that responds to the neighbourhood character.

The zone is flexible because there is no default building height limit and planning authorities can specify different objectives, decision guidelines and building and design requirements to suit a range of strategic outcomes. The Mixed Use Zone may be appropriate for areas:

- planned for more intense and diverse residential development on sites well located in relation to activity centres, employment and public transport
- brownfield or urban renewal sites
- planned for apartment style development

### Key attributes of the Mixed Use Zone

- Supports residential development. A permit is not required to use land for a dwelling. The land use Accommodation which includes uses such as Group accommodation, Residential hotel and Retirement village requires a permit.
- Exempts the development of one dwelling on a lot of 300 square metres or more. Other works and outbuildings normal to a dwelling are exempt if requirements are met.
- Allows a permit application for the construction and extension of two or more dwellings on a lot.
- Allows uses such as Food and drink premises, Medical centre, Office, Place of worship and Shop without a permit if conditions are met.
- Allows applications to be made for a variety of uses such as Industry, Retail premises and Warehouse.
- Prohibits uses such as Adult sex

bookshop, Brothel, Materials recycling and Transfer station

- Allows a schedule to specify objectives, application requirements, decision guidelines, a maximum building height and siting and design requirements to suit local circumstances.
- Allows a local maximum building height to be specified that cannot be exceeded.
- Includes amenity requirements for buildings on lots abutting land in a Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone or Township Zone.

#### Using the schedule to the Mixed Use Zone

The Ministerial Direction – The Form and Content of Planning Schemes sets out the form and content requirements for all schedules.

#### Summary of the Mixed Use Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all the Mixed Use Zone Schedules, for example MUZ1, MUZ2 and MUZ3.
- Allows the specification of different standards to Clause 54 or 55 for:
  - minimum street setbacks
  - site coverage
  - permeability
  - landscaping
  - side and rear setbacks
  - walls on boundaries
  - private open space
  - front fence height.
- Allows a maximum building height requirement in metres for any building to be specified.
- Exempts specified uses, buildings and works from the notice requirements of section 52 of the *Planning and Environment Act 1987*.

- Allows permit application requirements and decision guidelines to be specified.

#### Residential Growth Zone (RGZ) Clause 32.07

The Residential Growth Zone enables new housing growth and allows greater diversity in appropriate locations while providing certainty about the expected built form outcomes.

The Residential Growth Zone may be appropriate for:

- areas planned for increased housing growth and density
- the provision of increased or predominate medium density housing
- land near activities areas, train stations and town centres
- redevelopment sites, brownfield or urban renewal sites.

#### Key attributes of the Residential Growth Zone

- Supports residential development. A permit is not required to use land for a dwelling. The land use Accommodation which includes uses such as Group accommodation, Residential hotel and Retirement village requires a permit.
- Exempts the development of one dwelling on a lot of 300 square metres or more. Other works and outbuildings normal to a dwelling are exempt if requirements are met.
- Allows a permit application for the construction and extension of two or more dwellings on a lot.
- Allows uses such as Food and drink premises, Medical centre, Place of worship and Shop without a permit if conditions are met.
- Allows applications to be made for some non-residential uses such as Convenience restaurant, Office, Shop and Service station.
- Prohibits uses such as Bottle shop, Industry, Nightclub, Warehouse and many retail uses.

- Allows a schedule to specify application requirements, decision guidelines, siting and design requirements and a maximum building height for a dwelling or residential building.
- Encourages up to four storey residential development (and complementary non-residential uses) by setting a discretionary height limit of 13.5 metres.

#### Using the schedule to the Residential Growth Zone

The Ministerial Direction – The Form and Content of Planning Schemes sets out the form and content requirements for all schedules.

#### Summary of the Residential Growth Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all the Residential Growth Zone Schedules, for example RGZ1, RGZ2 and RGZ3.
- Allows the specification of different standards to Clause 54 or 55 for:
  - minimum street setbacks
  - site coverage
  - permeability
  - landscaping
  - side and rear setbacks
  - walls on boundaries
  - private open space
  - front fence height.
- Allows a maximum building height requirement in metres for buildings used as a dwelling or a residential building to be specified.
- Allows permit application requirements and decision guidelines to be specified.

#### General Residential Zone (GRZ) Clause 32.08

The General Residential Zone enables moderate housing growth and diversity. In the suite of residential zones, the role of the General Residential Zone sits between the

Residential Growth Zone, which enables housing growth and diversity, and the Neighbourhood Residential Zone which favours existing neighbourhood character and restricts housing growth.

The General Residential Zone may be appropriate for:

- most residential areas where moderate growth and diversity of housing will occur consistent with neighbourhood character
- areas with a diversity of housing stock, diversity of lot sizes and a more varied neighbourhood character.

#### Key attributes of the General Residential Zone

- Supports residential development. A permit is not required to use land for a dwelling. The land use Accommodation which includes uses such as Group accommodation, Residential hotel and Retirement village requires a permit.
- Exempts the development of one dwelling on a lot of 300 square metres or more unless specified differently in a schedule to the zone. Other works and outbuildings normal to a dwelling are exempt if requirements are met.
- Allows a permit application for the construction and extension of two or more dwellings on a lot.
- Allows non-residential uses such as Medical centre and Place of worship without a permit if conditions are met.
- Allows applications to be made for some non-residential uses such as Convenience restaurant, Store, Take-away food premises and Service station.
- Prohibits uses such as Industry, Nightclub, Office, Warehouse and most retail premises.
- Allows a schedule to specify application requirements, decision guidelines, siting and design requirements and a maximum building height for a dwelling or residential building.

### Using the schedule to the General Residential Zone

The Ministerial Direction – The Form and Content of Planning Schemes sets out the form and content requirements for all schedules.

### Summary of the General Residential Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all the General Residential Zone Schedules, for example GRZ1, GRZ2 and GRZ3.
- Allows a permit requirement to be specified for the construction or extension of one dwelling on a lot between 300 square metres and 500 square metres.
- Allows the specification of different standards to Clause 54 or 55 for:
  - minimum street setbacks
  - site coverage
  - permeability
  - landscaping
  - side and rear setbacks
  - walls on boundaries
  - private open space
  - front fence height.
- Allows a maximum building height requirement in metres for buildings used as a dwelling or a residential building to be specified.
- Allows permit application requirements and decision guidelines to be specified.

### Neighbourhood Residential Zone (NRZ) Clause 32.09

The Neighbourhood Residential Zone restricts housing growth and protects an identified neighbourhood character. The likely application of the Neighbourhood Residential Zone is in areas where single dwellings prevail and change is not identified.

The Neighbourhood Residential Zone may be appropriate for:

- areas where single dwellings prevail and change is not identified, such as areas of recognised neighbourhood character, heritage, environmental or landscape significance
- areas which may not have good supporting transport infrastructure or other infrastructure, facilities and services and are not likely to be improved in the medium to longer term
- areas where constraints and natural or other hazards should limit housing growth and diversity.

### Key attributes of the Neighbourhood Residential Zone

- Supports limited residential development. A permit is not required to use land for a dwelling. The land use Accommodation which includes uses such as Group accommodation, Residential hotel and Retirement village requires a permit.
- Includes a purpose to implement neighbourhood character policy and adopted neighbourhood character guidelines. Character studies and policies that are not part of a planning scheme have limited statutory weight however they may be deemed as seriously entertained documents for the purpose of decision making by responsible authorities.
- Exempts the development of one dwelling on a lot of 300 square metres or more. Other works and outbuildings normal to a dwelling are exempt if requirements are met. A schedule to the zone can specify a different threshold.
- Restricts dwelling development to a maximum of two dwellings on a lot, with the ability for councils to vary this limit through a schedule to the zone (the minimum can be less or more than two dwellings).
- Allows non-residential uses such as Medical centre and Place of worship without a permit if conditions are met.

- Allows applications to be made for some non-residential uses such as Convenience restaurant, Store, Take-away food premises and Service station.
- Prohibits uses such as Industry, Nightclub, Office, Warehouse and most retail premises.
- Allows a schedule to specify application requirements, decision guidelines, siting and design requirements, number of dwellings on a lot, permit thresholds for construction and extension of single dwellings and maximum building height for a dwelling or residential building.
- walls on boundaries
- private open space
- front fence height.
- Allows a maximum number of dwellings allowed on a lot to be specified. The number can be one or higher.
- Allows a maximum building height requirement in metres for buildings used as a dwelling or a residential building to be specified.
- Allows permit application requirements and decision guidelines to be specified.

#### Using the schedule to the Neighbourhood Residential Zone

The Ministerial Direction – The Form and Content of Planning Schemes sets out the form and content requirements for all schedules.

#### Summary of the Neighbourhood Residential Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all the Neighbourhood Residential Zone Schedules, for example NRZ1, NRZ2 and NRZ3.
- Allows a minimum subdivision area to be specified.
- Allows a threshold area (in square metres) to be specified for the construction or extension of one dwelling on a lot.
- Allows a threshold area (in square metres) to be specified for the construction or extension of a front fence within three metres of a street where there is one dwelling on a lot.
- Allows the specification of different standards to Clause 54 or 55 for:
  - minimum street setbacks
  - site coverage
  - permeability
  - landscaping
  - side and rear setbacks
- Supports residential development in townships. A permit is not required to use land for a dwelling. The land use Accommodation which includes uses such as Group accommodation, Residential hotel and Retirement village requires a permit.
- Exempts the development of one dwelling on a lot of 300 square metres or more. Other works and outbuildings normal to a dwelling are exempt if requirements are met.
- Allows a permit application for the construction and extension of two or more dwellings on a lot.
- Allows non-residential uses such as Medical centre and Place of worship without a permit if conditions are met.
- Allows applications to be made for some non-residential uses such as, Place of assembly, Retail premises, Industry and Warehouse.

#### Township Zone (TZ) Clause 32.05

The Township Zone provides for residential and other uses in small towns and enables moderate housing growth.

The likely application of the Township Zone is in residential areas of small towns where moderate growth and diversity of housing will occur that is consistent with neighbourhood character.

#### Key attributes of the Township Zone

- Prohibits uses such as Brothel, Intensive animal husbandry, Motor racing track and Saleyard.
- Allows a schedule to specify application requirements, decision guidelines, siting and design requirements and a maximum building height for a dwelling or residential building.

#### Using the schedule to the Township Zone

The Ministerial Direction – The Form and Content of Planning Schemes sets out the form and content requirements for all schedules.

#### Summary of the Township Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all Township Zone Schedules, for example TZ1, TZ2 and TZ3.
- Allows a permit requirement to be specified for the construction or extension of one dwelling on a lot between 300 square metres and 500 square metres.
- Allows the specification of different standards to Clause 54 or 55 for:
  - minimum street setbacks
  - site coverage
  - permeability
  - landscaping
  - side and rear setbacks
  - walls on boundaries
  - private open space
  - front fence height.
- Allows a maximum building height requirement in metres for a dwelling or a residential building to be specified.
- Allows permit application requirements and decision guidelines to be specified.

#### Low Density Residential Zone (LDRZ) Clause 32.03

The Low Density Residential Zone enables the lowest density of housing in the suite of residential zones. It may be appropriate for:

- residential areas on the fringe of urban areas and townships
- areas planned for larger residential lots containing a maximum of one or two dwellings
- areas where sewerage may not be available or areas where larger residential lots (to a minimum of 2 hectares) are connected to reticulated sewerage.

#### Key attributes of the Low Density Residential Zone

- A permit is not required to use land for a single dwelling on a lot. The use of land for two dwellings requires a permit and the use of land for more than two dwellings is prohibited.
- Allows a permit application for the construction and extension of two or more dwellings on a lot.
- Allows an application to be made to subdivide a lot to a minimum of 0.2 hectares where reticulated sewerage is connected or to a minimum of 0.4 hectares where not connected to reticulated sewerage.
- Allows limited non-residential uses such as Medical centre without a permit if conditions are met.
- Allows applications to be made for some non-residential uses such as Food and drink premises, Place of assembly, Service station and store.
- Prohibits uses such as Industry, Nightclub, Office, Warehouse and most retail premises.
- Allows a schedule to specify a minimum subdivision area and permit threshold for the construction of outbuildings.

### Summary of the Low Density Residential Zone Schedule

- Allows the use of multiple schedules. Councils with more than one schedule will require a number suffix for all Low Density Residential Zone Schedules, for example LDRZ1, LDRZ2 and LDRZ3.
- Allows a minimum subdivision area to be specified for land.

### More information

More information is available at [www.dtpli.vic.gov.au/planning](http://www.dtpli.vic.gov.au/planning)

Planning Practice Note 4: Writing a Municipal Strategic Statement

Planning Practice Note 8: Writing a Local Planning Policy

Planning Practice Note 10: Writing Schedules

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Use	Condition
<b>Tramway</b>	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

**Section 2 - Permit required**

Use	Condition
<p>Accommodation (other than Dependent person's unit, Dwelling and Residential aged care facility)</p> <p>Agriculture (other than Animal keeping, Animal training, Apiculture, Horse stables and intensive animal husbandry)</p>	
Animal keeping (other than Animal boarding) – if the Section 1 condition is not met	Must be no more than 5 animals.
Car park	Must be used in conjunction with another use in Section 1 or 2.
Car wash	The site must adjoin, or have access to, a road in a Road Zone.
<b>Community market</b>	
Convenience restaurant	The site must adjoin, or have access to, a road in a Road Zone.
<b>Convenience shop</b>	
<p>Food and drink premises (other than Convenience restaurant and Take away food premises)</p> <p>Leisure and recreation (other than Informal outdoor recreation and Motor racing track)</p> <p>Place of assembly (other than Amusement parlour, Carnival, Circus, Nightclub, and Place of worship)</p>	
<b>Plant nursery</b>	
Service station	<p>The site must either:</p> <ul style="list-style-type: none"> <li>• Adjoin a commercial zone or industrial zone.</li> <li>• Adjoin, or have access to, a road in a Road Zone.</li> </ul> <p>The site must not exceed either:</p> <ul style="list-style-type: none"> <li>• 3000 square metres.</li> <li>• 3600 square metres if it adjoins on two boundaries a road in a Road Zone.</li> </ul>
Store	Must be in a building, not a dwelling, and used to store equipment, goods, or motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot.
Take away food premises	The site must adjoin, or have access to, a road in a Road Zone.

Use	Condition
Utility installation (other than utility installation and Telecommunications facility)	Minor and
Any other use not in Section 1 or 3	

### Section 3 – Prohibited

Use
Amusement parlour
Animal boarding
Animal training
Brothel
Cinema based entertainment facility
Horse stables
Industry (other than Car wash)
Intensive animal husbandry
Motor racing track
Nightclub
Office (other than Medical centre)
Retail premises (other than Community market, Convenience shop, Food and drink premises, Plant nursery)
Saleyard
Stone extraction
Transport terminal
Warehouse (other than Store)

**32.08-2**  
01/07/2013  
VB

### Subdivision

#### Permit requirement

A permit is required to subdivide land.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
60 or more lots	All except Clause 56.03-5.
16 – 59 lots	All except Clauses 56.03-1 to 56.03-3, 56.03-5, 56.06-1 and 56.06-3.
3 – 15 lots	All except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-8.
2 lots	Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2.

**32.08-3**01/07/2013  
VB**Construction and extension of one dwelling on a lot****Permit requirement**

A permit is required to construct or extend one dwelling on:

- A lot of less than 300 square metres.
- A lot of between 300 square metres and 500 square metres if specified in a schedule to this zone.

A permit is required to construct or extend a front fence within 3 metres of a street if:

- The fence is associated with one dwelling on:
  - A lot of less than 300 square metres, or
  - A lot of between 300 and 500 square metres if specified in a schedule to this zone, and
- The fence exceeds the maximum height specified in Clause 54.06-2.

A development must meet the requirements of Clause 54.

**No permit required**

No permit is required to:

- Construct or carry out works normal to a dwelling.
- Construct or extend an out-building (other than a garage or carport) on a lot provided the gross floor area of the out-building does not exceed 10 square metres and the maximum building height is not more than 3 metres above ground level.

**32.08-4**01/07/2013  
VB**Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings****Permit requirement**

A permit is required to:

- Construct a dwelling if there is at least one dwelling existing on the lot.
- Construct two or more dwellings on a lot.
- Extend a dwelling if there are two or more dwellings on the lot.
- Construct or extend a dwelling if it is on common property.
- Construct or extend a residential building.

A permit is required to construct or extend a front fence within 3 metres of a street if:

- The fence is associated with 2 or more dwellings on a lot or a residential building, and
- The fence exceeds the maximum height specified in Clause 55.06-2.

A development must meet the requirements of Clause 55. This does not apply to a development of five or more storeys, excluding a basement.

A permit is not required to construct one dependent person's unit on a lot.

**32.08-5**01/07/2013  
VB**Requirements of Clause 54 and Clause 55**

A schedule to this zone may specify the requirements of:

- Standards A3, A5, A6, A10, A11, A17 and A20 of Clause 54 of this scheme.
- Standards B6, B8, B9, B13, B17, B18, B28 and B32 of Clause 55 of this scheme.

If a requirement is not specified in a schedule to this zone, the requirement set out in the relevant standard of Clause 54 or Clause 55 applies.

**32.08-6**

01/07/2013  
VB

**Buildings and works associated with a Section 2 use**

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-1.

**32.08-7**

01/07/2013  
VB

**Maximum building height requirement for a dwelling or residential building**

The maximum height of a building used for the purpose of a dwelling or residential building must not exceed the building height specified in a schedule to this zone.

This does not apply to:

- An extension of an existing building that exceeds the specified building height, provided that the extension does not exceed the existing building height.
- A building which exceeds the specified building height for which a valid building permit was in effect prior to the introduction of this provision.

If no building height is specified, the requirement set out in the relevant standard of Clause 54 and Clause 55 applies.

**32.08-8**

01/07/2013  
VB

**Application requirements**

An application must be accompanied by the following information, as appropriate:

- For a residential development of four storeys or less, the neighbourhood and site description and design response as required in Clause 54 and Clause 55.
- For residential development of five or more storeys, an urban context report and design response as required in Clause 52.35.
- For an application for subdivision, a site and context description and design response as required in Clause 56.
- Plans drawn to scale and dimensioned which show:
  - Site shape, size, dimensions and orientation.
  - The siting and use of existing and proposed buildings.
  - Adjacent buildings and uses.
  - The building form and scale.
  - Setbacks to property boundaries.
- The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials, hours of operation and light spill, solar access and glare.
- Any other application requirements specified in a schedule to this zone.

If in the opinion of the responsible authority an application requirement is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.

**32.08-9 Exemption from notice and review**

01/07/2013  
VB

**Subdivision**

An application to subdivide land into lots each containing an existing dwelling or car parking space is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

**32.08-10 Decision guidelines**

01/07/2013  
VB

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

**General**

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of this zone.
- Any other decision guidelines specified in a schedule to this zone.

**Subdivision**

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

**Dwellings and residential buildings**

- For the construction and extension of one dwelling on a lot, the objectives, standards and decision guidelines of Clause 54.
- For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55.
- For a development of five or more storeys, excluding a basement, the Design Guidelines for Higher Density Residential Development (Department of Sustainability and Environment 2004).

**Non-residential use and development**

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

**32.08-11 Advertising signs**

01/07/2013  
v8

Advertising sign requirements are at Clause 52.05. This zone is in Category 3.

*Notes: Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.*

*Check whether an overlay also applies to the land.*

*Other requirements may also apply. These can be found at Particular Provisions.*

**ITEM C3.3****AMENDMENT C33 (UPDATED FLOOD OVERLAY CONTROLS) – IMPLICATIONS FOR PORT ALBERT**

DIVISION: DEVELOPMENT  
 ACTION OFFICER: MANAGER LAND USE PLANNING  
 DATE: 4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓		✓		✓					✓

**OBJECTIVE**

To update Council on the approval of Amendment C33 (updated flood overlay controls) and determine an appropriate response for the urban zoned areas of Port Albert which have been excluded from Amendment C33 by the Minister for Planning.

**BACKGROUND**

Amendment C33 (updated flood overlay controls) was prepared to ensure that the best available flood information is included in the Wellington Planning Scheme (WPS). Amendment C33 was adopted by Council on 19 April 2011 following an extensive community consultation and Independent Planning Panel process (refer to Attachment 1 for the Council resolution and Attachment 2 for the Independent Planning Panel report).

Following Council's adoption, Amendment C33 was submitted to the Minister for Planning for approval. In July 2011, the then Department of Planning and Community Development (DPCD) requested that the 2006 CSIRO report (used as the basis to establish the 1 in 100 year flood level of 1.75m AHD in Port Albert) be peer reviewed. The West Gippsland Catchment Management Authority (WGCMA) subsequently commissioned AECOM Pty Ltd to undertake the peer review. The peer review report concluded that the flood level at Port Albert, as determined by the 2006 CSIRO report, can be considered reasonable to determine flood overlay boundaries.

Given the technical nature of the CSIRO report and the peer review report, Council officers are not in a position to dispute the science and concur with the WGCMA and the Independent Planning Panel that considered Amendment C33 that the 2006 CSIRO report is the 'best available' flood information.

On 16 January 2014, Amendment C33 came into operation in the WPS, except in relation to the urban zoned areas of Port Albert which were excluded from flood overlay controls by the Minister for Planning (refer to the approved flood overlay extents in Attachment 3). According to the Minister for Planning's correspondence:

*'I have changed the amendment to remove flood controls from the urban zoned areas of Port Albert. This is in response to community concerns expressed during the amendment process and the need to reconsider the range of planning controls applying to this township.'*

It is important to note that in deciding to exclude the urban zoned areas of Port Albert from proposed flood overlays, Council is not aware that the Minister for Planning has challenged the science originally used to justify flood controls in the township.

Where flood overlays have been approved by the Minister for Planning elsewhere in the municipality, Council will continue to refer planning permit applications to the WGCMA for advice. In areas affected by potential sea level rise, Council and the WGCMA will continue to rely on the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy' (refer to Attachment 4). However, given the Minister for Planning's decision to exclude Port Albert from proposed flood overlay controls, Council needs to consider whether it wishes to regulate the issue of CSIRO identified flooding under the planning or building system, or to not regulate flooding at all.

In broad terms, the key options for Council in relation to Port Albert include:

1. Continue to refer planning permit applications in Port Albert ('triggered' predominantly by the Design and Development Overlay and Heritage Overlay) to the WGCMA for advice.
2. Control floor levels only in Port Albert under the *Building Regulations 2006* (and not refer planning permit applications to the WGCMA for advice).
3. Not regulate flooding in Port Albert under the planning or building system.

A summary of the implications of each of these options is outlined below.

1. Continue to refer planning permit applications in Port Albert to the WGCMA for advice.
  - Reduced floor level of 2.25m AHD (based on the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy') will continue to be specified as conditions on approved planning permits.
  - Applications which intensify the flood hazard (e.g. subdivision) are unlikely to be supported by the WGCMA.
  - Responds to the 'best available' flood information to minimise risk.
  - Potential for approach to be tested at the Victorian Civil and Administrative Tribunal (VCAT) (e.g. refusal of a subdivision).
  - Decision likely to be poorly received by the State Government and the local community.
2. Control floor levels only in Port Albert under the *Building Regulations 2006* (and not refer planning permit applications to the WGCMA for advice).
  - Designate urban zoned areas of Port Albert as being liable to flooding under the *Building Regulations 2006* through a future report to Council. In this case, floor levels (2.25m AHD) would then be controlled through the building permit process.
  - Issues of flooding and intensification would not be considered through the planning permit process (unless an appeal was lodged at VCAT).
  - Provides Council with a 'middle ground' approach by responsibly controlling floor level heights in a manner which is generally consistent with the approach of the former Shire of Alberton where a floor level height of 2.4m AHD was utilised to respond to the flood hazard.
3. Not regulate flooding in Port Albert under the planning or building system.
  - Floor levels not specified under planning or building permits (and hence building floor levels could potentially be constructed below the 1 in 100 year flood level of 1.75m AHD).
  - Issues of flooding and intensification would not be considered through the planning permit process (unless an appeal was lodged at VCAT).
  - Greater liability implications than Option 1 and 2 above.

## OPTIONS

Council has the following options:

1. Continues to provide a planning response to flooding in the urban zoned areas of Port Albert by continuing to refer planning permit applications to the WGCMA for advice (in accordance with the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy'); or
2. Request officers to prepare a report for Council's consideration on 18 March 2014 which a) designates the urban zoned areas of Port Albert as liable to flooding under the *Building Regulations 2006* with a finished floor level requirement of 2.25m AHD; and b) make changes to the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy' to reflect this approach for future development in Port Albert; which will result in no planning permit applications being referred to the WGCMA for advice; or
3. a) does not provide a planning (or building regulation) response to flooding in the urban zoned areas of Port Albert and immediately ceases to refer planning permit applications to the WGCMA for advice; and  
b) Council adopts the 'assessment of development in relation to potential sea level rise policy' with changes shown in yellow highlight included in Attachment 5; or
4. Seek further information prior to determining a position in relation to the urban zoned areas of Port Albert.

## PROPOSAL

To update Council on the approval of Amendment C33 (updated flood overlay controls) and determine an appropriate response for the urban zoned areas of Port Albert which have been excluded from Amendment C33 by the Minister for Planning.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## FINANCIAL IMPACT

Should Council elect to designate the urban zoned areas of Port Albert as liable to flooding under the *Building Regulations 2006* through a future Council report, it is noted that the usual fee for Council's 'report and consent' in areas deemed liable to flooding is \$238.75. To alleviate this additional regulatory cost burden, it will be proposed that the 'report and consent' fee be waived when a planning permit is also required for the proposed development. This issue will be further reported to Council on 18 March 2014 should Council resolve to proceed with Option 2 above.

## LEGISLATIVE IMPACT

The options presented in this report range from no regulatory control through to regulating flooding under the *Building Regulations 2006* or the *Planning and Environment Act 1987*. From a risk management perspective (refer below), it is considered prudent for Council to establish an appropriate regulatory regime to respond to potential flooding in Port Albert, despite the Minister for Planning's recent decision to not apply flood overlay controls to the urban zoned areas of Port Albert.

## COUNCIL PLAN IMPACT

The Council Plan 2013–17 Theme Land Use Planning states the following strategic objective and related strategy:

### Strategic Objective

*Appropriate and forward looking land use planning that incorporates sustainable growth and development*

### Strategy 5.1

*Ensure Land Use Policies and Plans utilise an integrated approach to guide appropriate land use and development.*

This report supports the above Council Plan strategic objective and strategy.

## PLANNING POLICY IMPACT

Current planning policy is to refer planning permit applications in Port Albert to the WGCMA for advice in line with the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy.' Should Council elect to proceed with Option 2 or 3 above, a new policy position for Port Albert will be established which will necessitate changes to the 'assessment of development in relation to potential sea level rise policy'. Further, Option 2 and 3 above will effectively mean that flooding will not be considered through the planning permit process (unless an appeal is lodged at VCAT).

## RISK MANAGEMENT

A number of risk management issues were discussed at the 4 February 2014 Council workshop, including legal advice. In applying the precautionary principle and potentially reducing future legal exposure, it is considered appropriate for Council to regulate potential flooding in the urban zoned areas of Port Albert, despite the Minister for Planning's recent decision.

Option 1 above provides the most risk averse approach by considering both floor levels and the intensity of future development based on WGCMA advice as the relevant flood authority. Option 2 above would ensure that only building floor levels are controlled through the building permit process (required floor levels would be 2.25m AHD which includes the 1 in 100 year flood level of 1.75m AHD plus 0.3m freeboard plus 0.2m potential sea level rise). Option 3 would result in the potential for building floor levels to be established below the 1 in 100 year flood level of 1.75m AHD.

## PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

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### RECOMMENDATION

***Officers recommend that Council select one of the following four options***

- 1. Council continues to provide a planning response to flooding in the urban zoned areas of Port Albert by continuing to refer planning permit applications to the WGCMA for advice (in accordance with the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy'); or***

- 2. Council request officers to prepare a report for Council's consideration on 18 March 2014 which a) designates the urban zoned areas of Port Albert as liable to flooding under the Building Regulations 2006 with a finished floor level requirement of 2.25m AHD; and b) make changes to the adopted 17 December 2013 'assessment of development in relation to potential sea level rise policy' to reflect this approach for future development in Port Albert; which will result in no planning permit applications being referred to the WGCMA for advice; or**
- 3. Council**
  - a) does not provide a planning (or building regulation) response to flooding in the urban zoned areas of Port Albert and immediately ceases to refer planning permit applications to the WGCMA for advice; and**
  - b) Council adopts the 'assessment of development in relation to potential sea level rise policy' with changes shown in yellow highlight included in Attachment 5; or**
- 4. Council seek further information prior to determining a position in relation to the urban zoned areas of Port Albert.**

**ITEM C3.3****AMENDMENT C33**

DIVISION: DEVELOPMENT  
 ACTION OFFICER: GENERAL MANAGER DEVELOPMENT  
 DATE: 19 APRIL 2011

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

**OBJECTIVE**

- To consider the Panel Report for Amendment C33 to the Wellington Planning Scheme, in accordance with section 27 of the *Planning and Environment Act 1987* (the Act);
- To adopt Wellington Amendment C33 with the changes shown in Attachment 1, which incorporate:
  - a. Changes recommended by the Panel, pursuant to section 29 of the Act; and
  - b. A further change requested by the West Gippsland Catchment Management Authority to refine the mapping of the Land Subject to Inundation Overlay in relation to 21 Wharf St, Port Albert.
- To request the Minister for Planning to approve Amendment C33 pursuant to section 31 of the Act.

**BACKGROUND**

Amendment C33 to the Wellington Planning Scheme (WPS) was originally exhibited between 4 February 2010 and 18 March 2010, with the exhibition period being extended until 25 March 2010.

Following the public exhibition of the Amendment, 139 submissions were received. Taking these submissions into consideration, the West Gippsland Catchment Management Authority (WGCMA) proposed to make changes to the exhibited amendment where appropriate. These changes were considered by Council at its meeting of 7 September 2010, at which time Council also resolved to seek the appointment of an Independent Planning Panel (the Panel) to consider all submissions received, as well as the changes proposed by the WGCMA.

The Panel Hearing for Amendment C33 was conducted on 23, 24 and 25 November 2010 and the Panel's Report was received on 25 January 2011 (please see Attachment 2). The Panel report was subsequently made available to the public.

*Panel Recommendations:*

After giving consideration to all written and oral submissions, the Panel has recommended that Amendment C33 be adopted as amended and endorsed 'in principle' by Council at its Ordinary Council Meeting on 7 September 2010, subject to some additional changes. These additional recommended changes, as well as Officers' comments are documented in Table 1 below.

**Table 1 - Core Recommendations**

<b>Panel Recommendation</b>	<b>Officers' Response</b>
<p>1. Check the detailed boundaries of the proposed overlays in Port Albert to correct any apparent anomalies such as the exclusion of the Fish and Chip Shop at Stockyard Point.</p>	<p><i>AGREE</i></p> <p>Council Officers and the WGCMA are supportive of this recommendation. Following further assessment of the matter, the WGCMA has proposed revising the LSIO delineation at Stockyard Point, as shown in Fig 1.</p> <p>In essence, the Land Subject to Inundation Overlay (LSIO) has been modified slightly to include the whole of the Fish and Chip shop. The adjacent higher land remains outside the LSIO.</p>
<p>2. Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the Floodway Overlay (FO) and LSIO to include the following exemption under the heading Works:</p> <p>A permit is not required to carry out the following:</p> <ul style="list-style-type: none"> <li>- Buildings and works associated with jetties, boardwalks, landings, beach refurbishment, swing moorings, navigational aids, beacons and signs.</li> </ul>	<p><i>AGREE</i></p> <p>Council Officers and the WGCMA requested in their submission that the Panel recommend making this change to the Amendment in response to Submission 20 from Gippsland Ports.</p> <p>It is noted that a minor change to wording is proposed (refer to Attachment 1) to reflect that the exempted buildings and works apply specifically to Gippsland Ports.</p>
<p>3. Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the FO and LSIO to include the following exemption for VicRoads works approved as part of Amendment C57:</p> <p>A permit is not required to carry out the following:</p> <ul style="list-style-type: none"> <li>- Buildings and works associated with the construction of the South Gippsland Highway upgrade (Stage 3 – Cox's Bridge) between May</li> </ul>	<p><i>AGREE</i></p> <p>Council Officers and the WGCMA requested in their submission that the Panel recommend making this change in response to Submission 22 from VicRoads.</p>

Street, Sale and the Thomson River Bridge (constructed as part of the South Gippsland Highway upgrade: Stage 1 – Swing Bridge Realignment), provided that the buildings and works are to the satisfaction of the floodplain management authority.

Figure 1

Stockyard Point, Port Albert - minor change to LSIO [blue]  
- now includes all of Fish and Chip shop, but not adjacent higher land



With regard to the *strategic assessment* of the Amendment, the Panel “generally endorses Council’s response with the exception of Council’s assessment in relation to social and economic effects” associated with the Amendment (Planning Panels Victoria 2011: p 26).

The Panel largely attributed these impacts (specifically in the case of Port Albert) to a lack of planning certainty and clarity, stating the following:

*“It is reasonable to accept that the uncertainty that was generated by the ‘mixed messages’ flowing from the exhibition period is likely to have contributed to some property owners in Port Albert reassessing their situation and placing their properties on the market. Equally, the Panel is aware that holiday townships such as Port Albert usually have a range of properties on the market.”*

*“The Panel accepts that there has been uncertainty and anxiety experienced and is continuing to be experienced by some property owners in Port Albert in relation to the proposed extent of the flood overlays. The reduction in the extent of these overlays proposed by the WGCMA and accepted by Council may have reduced this uncertainty and anxiety to some extent. However, the*

*Panel perceived that there is probably a wider-ranging anxiety pervading the Port Albert community related to the combined effects of climate change, the need to plan for sea level rise and continual media coverage of these issues elsewhere in coastal Gippsland. The flood overlay issue has undoubtedly compounded this anxiety and uncertainty about the future of Port Albert.”*  
(Ibid: pgs 53-54)

The Panel also indicated it felt that Council's assessment of social and economic impacts was general in nature and that real and perceived impacts could have been further ameliorated if Council had given further attention to its communications and consultation process.

With regard to future processes, it made the following suggestion:

*“The Panel believes that Council should give consideration to a more focused and on-going consultation process with the Port Albert community in relation to planning for flooding and climate change as well as other relevant planning matters. Establishment of a Community Reference or Consultative Group or a similar structured community group would provide a means of ensuring a regular two way information flow between Council and the community about planning, environmental, social and other matters of importance to the Port Albert community.”*  
(Ibid: p 54)

While there is merit to the consultation process recommended above, Council Officers wish to note that the Amendment C33 consultation process undertaken exceeded the statutory requirements for a planning scheme amendment under the *Planning & Environment Act 1987*.<sup>1</sup> Nonetheless, it is recommended that Council note the Panel's advice and consider implementing a consultation process such as the above for Port Albert and other communities at a later date, particularly when improved data (including the Future Coasts data) becomes available and the implications of coastal climate change are better understood.

#### Recommendations for Further Work:

In addition to the recommendations in Table 1, which affect the statutory drafting of Amendment C33, the Panel has made a number of recommendations to Council and the WGCMA for further work. These recommendations are documented below in Table 2, alongside Officers' comments regarding their implications.

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<sup>1</sup> Please see pages 2-3 of Attachment 3 (Submission to the Panel from Council and the WGCMA) for details regarding exhibition and notification actions undertaken.

**Table 2 - Additional Recommendations**

<b>Panel Recommendation</b>	<b>Implications</b>
C1. Commission a peer review of Climate Change in Eastern Victoria – Stage 3 Report, CSIRO, 2006 <sup>2</sup> to determine the extent to which it can be relied upon, and the error margins which can be justified, in resolving FO and LSIO boundaries for Port Albert and other nearby coastal areas.	The action will need to be considered by the WGCMA outside the Amendment process. However, it is understood that the WGCMA have no current plans to commission a peer review given that improved information is expected to become available through DSE's Future Coasts project.
C2. Arrange the establishment of sufficient recording hydrographs and wind gauging stations around the Port Albert to Port Welshpool area to provide data which will enable more accurate determination of the tidal relationship between Port Albert and Port Welshpool and from that a better estimate of the 1 in 100 ARI tidal surge height for Port Albert.	The action will need to be considered by relevant authorities outside the Amendment process.
C3. Conduct a review of the FO and LSIO covering Port Albert once data is available from the further work suggested above.	When further flood studies are conducted and improved data becomes available, alterations to the FO and LSIO would need to be considered by the WGCMA and Council at that time.
C4. Consider further engagement with the community to discuss issues relating to coastal climate change and the infrastructure protection and adaptation decisions that may be required in the future.	It is recommended that Council and the WGCMA explore further consultation and communication options outside the Amendment C33 process.
C5. Regularly review the best available flood mapping data and further update the flood overlays across the Wellington Shire as required.	The action is already being undertaken by the WGCMA. As improved data becomes available, further Planning Scheme Amendments would be required in the future.
C6. Consider the establishment of a Community Consultative Committee to represent the Port Albert community (and potentially other communities) in planning, environmental and social matters relating to flooding and climate change issues.	It is recommended that Council and the WGCMA explore further consultation and communication options outside the Amendment C33 process.

In summary, the Panel has:

- (1) Supported all changes to the original Amendment that were proposed in Council's and the WGCMA's submission to the Panel.
- (2) Recommended that the boundaries of the proposed overlays be checked in relation to Port Albert and that any anomalies, such as in the case of the Fish & Chip Shop at Stockyard Point be corrected.
- (3) Recommended that the Amendment be adopted with changes.
- (4) Recommended that further actions (outside of the Amendment process) be undertaken by Council and the WGCMA, as documented in Table 2 above.

<sup>2</sup> It should be noted that, while the Panel makes reference to the abovementioned CSIRO report associated with climate change, it does so because the WGCMA has derived its most recent estimate of the 1 in 100 year flood *under current conditions* from this report. Climate change has not been factored into the *mapping* for Amendment C33.

Having taken the above into consideration, Officers recommend that Council adopt Amendment C33 with the changes supported by the Panel.

In addition, Officers recommend that Council adopt a further change to the Amendment mapping in relation to 21 Wharf St, Port Albert. This change is proposed by the WGCMA on the basis of information that was obtained after the Panel process (during the Yarram Community Information Session on 23 March 2011). The WGCMA has advised that, while the mapping of the Land Subject to Inundation Overlay (LSIO) presented to the Panel already excluded most of this property, the land owner has demonstrated that further filling work has brought the entire property to a level that justifies removing the LSIO from the property altogether (see Figure 2 below).

Copies of the statutory documents for Amendment C33 are contained in Attachment 4 (excluding the final mapping, which will be a modified version of the exhibited mapping that reflects all changes shown in Attachment 1).

**Figure 2 – Changes to the LSIO at 21 Wharf St, Port Albert**

LSIO at 21 Wharf St proposed by the WGCMA *during* the Panel Process



LSIO at 21 Wharf St proposed by the WGCMA *after* the Panel Process



### Clarification - Required Floor Levels in Port Albert

There has been a misunderstanding between what the WGCMA stated regarding the required floor levels in Port Albert and what the Panel has understood to be the case.

Specifically, on pages 49 and 53 of its report, the Panel has indicated that the WGCMA stated the floor level to which people are required to build in Port Albert is 2.85m AHD.

This is not the finished floor level currently required by the WGCMA.

The WGCMA has clarified that the correct required floor level is in fact 2.98m AHD.

This matter was brought to the attention of the Panel following the receipt of the Panel report. However, the Panel did not consider it necessary to amend its report in order to achieve the desired clarification, but suggested that it be included in this Council Report.

The WGCMA's requirement of 2.98m AHD is based on the following:

- The WGCMA is required to abide by State policy, which stipulates the following:

"Plan for sea level rise of not less than 0.8 metres by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions, such as topography and geology when assessing risks and impacts associated with climate change."

- The WGCMA considers that the best available estimate of the 1 in 100 year inundation level in 2100 is 2.68m AHD. This level has been obtained from the CSIRO's 2009 report 'The Effect of Climate Change on Extreme Sea Levels along Victoria's Coast'.
- Taking into account minimum freeboard requirements (0.3m minimum) under the Building Regulations 2006 and allowing for sea level rise as required by State policy, the finished floor level of a building in Port Albert must be no less than 2.98m AHD (2.68 + 0.3 = 2.98).

While the above clarification does not have any implications for the statutory Amendment documents themselves, it is provided for the purpose of clarity for the community.

## **OPTIONS**

Council as the planning authority may adopt Amendment C33 in whole or in part. Council may also elect to abandon the Amendment.

## **PROPOSAL**

- To consider the Panel Report for Amendment C33 to the Wellington Planning Scheme, in accordance with section 27 of the Act;
- To adopt Wellington Amendment C33 with the changes shown in Attachment 1, which incorporate:
  - a. Changes recommended by the Panel, pursuant to section 29 of the Act; and
  - b. A further change requested by the West Gippsland Catchment Management Authority to refine the mapping of the Land Subject to Inundation Overlay in relation to 21 Wharf St, Port Albert.
- To request the Minister for Planning to approve Amendment C33 pursuant to section 31 of the Act.

## **CONFLICT OF INTEREST**

Nil Staff and/or Contractors involved in the compilation of this Report have declared a Conflict of Interest.

## **FINANCIAL IMPACT**

Costs associated with this Amendment have been accommodated within the Strategic Planning Budget.

## **COMMUNICATION IMPACT**

Should the Minister for Planning approve Amendment C33, notice of the approval of the Amendment will appear in the Government Gazette.

## **LEGISLATIVE IMPACT**

The consideration of the Panel report, the adoption of Amendment C33 and the request for the Minister's approval is in accordance with the requirements of the Act.

## **COUNCIL PLAN IMPACT**

The Council Plan articulates the following *vision* and *key directions* with regard to Land Use Planning:

### ***Our Vision***

*Wellington's Municipal Strategic Statement and Land Use Policies order and regulate the use of land in an efficient, effective and ethical way reflecting community values and sustainable development.*

### ***Key Directions***

*We will ensure the aesthetic and orderly disposition of land, resources, facilities and services with a view to securing the physical, economic and social efficiency and health and wellbeing of our community.*

Amendment C33 is consistent with the above.

## **PLANNING POLICY IMPACT**

A number of submitters to Amendment C33 expressed concerns in relation to potential conflicts between the WGCMA's required floor levels and the Heritage Overlay in Port Albert. In response to these concerns it is noted that Council Officers would assess both heritage and flood related matters on a case by case basis and would work closely with Council's Heritage Advisor and the WGCMA in so doing.

## **RESOURCES AND STAFF IMPACT**

Officers are likely to experience an increase in the number of planning permits needing to be approved by Council (with referral to the WGCMA). This increase in planning permit activity is anticipated to be partially offset by the planning permit exemptions specified in the Schedules to the Flood Overlay (FO) and LSIO.

Any resource impact from increased permit activity, however, is negligible when compared with the benefits associated with ensuring that development is consistent with the flood hazard.

## **COMMUNITY IMPACT**

While the Amendment is in the broader community's best interest (given it assists in protecting properties and persons from future flood impacts), it has been controversial due to many landowners being impacted by increased levels of control.

Also, as noted above, the Panel has attributed socio-economic impacts (especially in the case of Port Albert) to a lack of planning certainty and clarity. Bearing this in mind, Officers have endeavoured to communicate the practical implications of Amendment C33 to the community by means of the Community Information Sessions held in Yarram and Sale on 23 and 24 March 2011 respectively.

## ENVIRONMENTAL IMPACT

The Amendment will result in overall benefit to the environment for the following reasons:

- Flood paths are likely to be kept free from obstruction and areas that provide temporary storage of floodwaters are likely to be protected.
- Water quality, waterways, and natural habitats may potentially be better protected as natural resources.

## CONSULTATION IMPACT

In addition to the communication and consultation undertaken during the exhibition and Panel phases of the Amendment, Council and the WGCMA have held Community Information Sessions in Yarram and Sale (on 23 and 24 March 2011 respectively) regarding the C33 Panel Report.

These information sessions were particularly focused on informing the community of the Panel's recommendations, the final steps in the Amendment process and the implications for the community. While these sessions were not intended to revisit the detailed planning justification for Amendment C33, they were arranged to offer the community an opportunity to speak with Council Officers and the WGCMA in person and better understand what the Amendment means for them.

23 individuals attended the Yarram session and 7 attended the Sale session.

## RISK MANAGEMENT IMPACT

Should Council decide not to progress this Amendment, current flood controls will continue to prove inadequate with respect to newly established flood levels and known areas of flood risk in the municipality.

## PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

---

### RECOMMENDATION

***That:***

- 1. Council consider the Panel Report for Amendment C33 to the Wellington Planning Scheme, in accordance with section 27 of the Planning and Environment Act 1987;***
- 2. Council adopt Wellington Amendment C33 with the changes shown in Attachment 1, which incorporate:***
  - a. Changes recommended by the Panel, pursuant to section 29 of the Planning and Environment Act 1987; and***
  - b. A further change requested by the West Gippsland Catchment Management Authority to refine the mapping of the Land Subject to Inundation Overlay in relation to 21 Wharf St, Port Albert;***
- 3. Request the Minister for Planning to approve Amendment C33 pursuant to section 31 of the Planning and Environment Act 1987.***

## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

*Mr Gary Avery; Port Albert resident*

Tabled a submission in relation to the C33 Amendment for Council's information. Mr Avery expressed concerns that tide levels used in the Panel Report did not reflect historical figures.

*Ms Susan Scott – Port Albert resident*

Spoke to Council about the accuracy of various mapping boundaries in the Panel Report and expressed concerns that her property had not been properly mapped. Ms Scott requested Council to ensure that the mapping is correct prior to agreeing to the Amendment.

*Mr Spencer Sandilands – Port Albert resident*

Queried the accuracy of the mapping data, particularly in relation to the land around Duke Street and the wharf, believing that all of this should have been exempt from the overlay.

## **COUNCILLOR MCCUBBIN/COUNCILLOR CLEARY**

***That:***

- 1. Council consider the Panel Report for Amendment C33 to the Wellington Planning Scheme, in accordance with section 27 of the Planning and Environment Act 1987;***
- 2. Council adopt Wellington Amendment C33 with the changes shown in Attachment 1, which incorporate:***
  - a. Changes recommended by the Panel, pursuant to section 29 of the Planning and Environment Act 1987; and***
  - b. A further change requested by the West Gippsland Catchment Management Authority to refine the mapping of the Land Subject to Inundation Overlay in relation to 21 Wharf St, Port Albert;***
- 3. Council request the Minister for Planning to approve Amendment C33 pursuant to section 31 of the Planning and Environment Act 1987.***

**CARRIED**

**WELLINGTON PLANNING SCHEME  
AMENDMENT C33**

**FLOOD OVERLAYS**

**PANEL REPORT**

**JANUARY 2011**

**WELLINGTON PLANNING SCHEME  
AMENDMENT C33**

**FLOOD OVERLAYS**

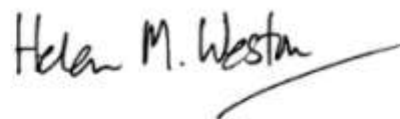
**PANEL REPORT**



Trevor McCullough, Chair



Stephen Hancock, Member



Helen Weston, Member

**January 2011**

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## List of Abbreviations Used

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AEP	Annual Exceedence Probability
AHD	Australian Height Datum
ARI	Average Recurrence Interval
CCCAC	Coastal Climate Change Advisory Committee
CEAH	Centre for Environment Applied Hydrology
CMA	Catchment Management Authority
CHO	Climate Change Overlay
DDO	Design and Development Overlay
DEM	Digital Elevation Modelling
DPCD	Department of Planning and Community Development
DSE	Department of Sustainability and Environment
EGCMA	East Gippsland Catchment Management Authority
FDTP	Flood Data Transfer Project
FO	Floodway Overlay
LiDAR	Light Detection and Ranging
LSIO	Land Subject to Inundation Overlay
LPPF	Local Planning Policy Framework
MSS	Municipal Strategic Statement
RFO	Rural Floodway Overlay
SKM	Sinclair Knight Merz
SMEC	Snowy Mountains Engineering Corporation
SPPF	State Planning Policy Framework
UNIPCC	United Nations International Panel on Climate Change
VPP	Victorian Planning Provisions
WGCMA	West Gippsland Catchment Management Authority

## **1. Summary**

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Amendment C33 to the Wellington Planning Scheme seeks to introduce new, and modify existing Flood Overlays and Land Subject to Inundation Overlays in areas known to be affected by mainstream flooding during a 1 in 100 year Average Recurrence Interval (ARI) flood. The Flood Overlays are proposed to be applied to areas that are likely to convey active flood flows and/or store floodwaters to hazardous depths, while the Land Subject to Inundation Overlays will generally be applied to areas that are subject to mainstream flooding but have a lower flood risk than areas in the Flood Overlay.

The Wellington Shire Council and the West Gippsland Catchment Management Authority have used a range of data of varying degrees of accuracy to map areas expected to be subject to inundation to arrive at the definition of the proposed overlays.

139 submissions were received in relation to the Amendment and, while some concerns have been resolved through discussions between landowners and the West Gippsland Catchment Authority, resulting in amended overlay boundaries, a large number of submissions remained unresolved. As a result, Council requested the appointment of an independent panel to hear submissions and provide recommendations to Council and the Minister for Planning on the Amendment.

The main issues identified in submissions related to: the accuracy of data used to define overlay boundaries; the applicability of overlays to individual properties; and the social and economic impact of the overlays on individual landowners and affected communities, particularly in the township of Port Albert.

After considering the methodology for the flood mapping and the submissions made, the Panel has recommended that Amendment C33 to the Wellington Planning Scheme should be adopted as amended by Wellington Shire Council at its Ordinary Council Meeting on 7 September 2010, subject to a number of changes and further recommendations as set out in this report.

## **2. Background**

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### **2.1 The Amendment**

Amendment C33 to the Wellington Planning Scheme proposes to:

- Rename the existing Rural Floodway Overlay (RFO) to the Floodway Overlay (FO);
- Modify the Floodway Overlay (FO) and Land Subject to Inundation Overlay (LSIO) maps in the Wellington Planning Scheme to reflect updated flood information, leading to one of three outcomes for affected areas within the municipality:
  - 1. An increase in the level of control through variation of the FO and LSIO and the application of the FO and LSIO to newly identified areas;
  - 2. A decrease in the level of control through variation or deletion of the FO and LSIO (in some cases); or
  - 3. No change in level of control (in some cases).
- Introduce new schedules to the FO and LSIO to exempt buildings and works that are not expected to adversely affect flood flows and/or levels from having to obtain a planning permit.

The overlays extend across large areas of Wellington Shire as indicated in overview form in the exhibited *Proposed Flood Maps* – attached as Appendix A. Detailed maps of all areas affected were included in the exhibited documents.

The planning authority is Wellington Shire Council and the joint proponents are the West Gippsland Catchment Management Authority (WGCMA) and Wellington Shire Council.

### **2.2 The Panel**

This Panel was appointed under delegation on 18 October 2010 pursuant to Sections 153 and 155 of the *Planning and Environment Act 1987* to hear and consider submissions in respect to the Amendment.

The Panel consisted of:

- Chairperson: Trevor McCullough
- Member: Stephen Hancock
- Member: Helen Weston

The Panel has been assisted by Greta Grivas, Senior Project Officer, Planning Panels Victoria.

### Hearings and inspections

A Directions Hearing was held on 5 November 2010 at Sale. The Panel Hearings were held on 23 and 24 November 2010 at Sale and 25 November 2010 at Yarram.

The Panel inspected the affected sites and surrounding areas, making unaccompanied visits to the following locations:

- Sale;
- Port Albert;
- Tarraville;
- Robertsons Beach;
- Alberton;
- Loch Sport – Ocean Grange;
- Wurruk;
- Rosedale.

### Exhibition

Amendment C33 to the Wellington Planning Scheme was exhibited between 4 February 2010 and 18 March 2010, with the exhibition period being extended until 25 March 2010.

As part of this exhibition of Amendment C33, the following notification actions were undertaken:

- Approximately 5,180 letters were sent to notify land owners affected by the Amendment;
- Notice in the Government Gazette was published on 4 February 2010;
- Newspaper notices appeared on the following dates:
  - The Gippsland Times - 2 and 9 February 2010;
  - The Yarram Standard - 3 and 10 February 2010; and
  - The Latrobe Valley Express - 4 and 11 February 2010.
- Community Information Sessions were held on 13, 17 and 18 February 2010 at Loch Sport, Seaspray, Yarram, Sale and Maffra; and
- Hard copies of Amendment C33 maps were made available for public viewing at the following locations:

▪ Alberton General Store/Post Office	▪ Newry General Store/Post Office
▪ Briagolong General Store/Post	▪ Port Albert General

Office	Store/Post Office
▪ Cowwarr General Store/Post Office	▪ Tinamba General Store/Post Office
▪ Golden Beach/Paradise Beach General Store/Post Office	▪ Rosedale Library
▪ Gormandale General Store/Post Office	▪ Sale – Wellington Shire Council Municipal Offices
▪ Heyfield Library	▪ Seaspray General Store/Post Office
▪ Loch Sport General Store/Post Office	▪ Stratford Library
▪ Loch Sport Supermarket (Lake St)	▪ Yarram – Wellington Shire Council Service Centre
▪ Longford General Store/Post Office	
▪ Maffra Library	

### Submissions

The Panel has considered all 139 written submissions and all material presented to it in connection with this matter.

The Panel heard the parties listed in the Table below:

**Table 1**

Submitter	No.	Represented By
Wellington Shire Council		Mr Ahsan Yousuf, Mr Joshua Clydesdale
West Gippsland Catchment Management Authority		Mr Wayne Gilmour, Mr Adam Dunn, Mr Geoff Taylor
Mr and Mrs Hogan	20	
Mr and Mrs Rizza	127, 137	Ms Aisha Rizza
Port Albert Progress Association	17, 61	Ms Donna Eades
Mr Michael Glebov	107	
Ms Dianne Hogan	12	
Mr Terry Batson	46, 135	
Mr Hobson	76	
Ms Susan Scott and Mr E Green	59, 130	Ms Susan Scott
Mr Warren Curry	77	
Ms Diana Botelho	125	
Mr Neil Avery	52	Mr Gary Avery

A list of all written submissions is included in Appendix B.

The Panel would particularly like to thank Mr Yousuf and Mr Clydesdale from Wellington Shire Council and Mr Gilmour, Mr Dunn and Mr Taylor

from WGCMA for collating and summarising the submissions and providing a comprehensive assessment of the issues raised.

#### **Further directions**

At the close of the Hearing on 25 November 2010, the Panel made the following directions in relation to requests from a number of parties to be able to provide further information:

- Further information is to be provided by Council and the WGCMA in response to questions raised by Ms Rizza and Ms Scott.
- Ms Rizza requested permission to provide further information to the Panel in response to the presentation made by Council and the WGCMA.
- Mr Avery also asked permission to provide additional information.

All parties were given until close of business on 7 December 2010 to submit further information to the Panel.

### **3. The Proposal**

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#### **3.1 Background to the proposal**

The Amendment affects various flood-prone areas within the Shire, as identified by the East and West Gippsland Catchment Management Authorities (EGCMA & WGCMA), in association with Wellington Shire Council. In general terms:

- *New flood controls* (affecting land where flood controls *do not currently exist* in the Wellington Planning Scheme) are proposed for Port Albert, McLoughlins Beach, the Tarra, Albert and Jack River areas, the Merriman Creek floodplains, the Macalister River floodplains between Lake Glenmaggie and Maffra (encompassing Newry and Tinamba) and the Boggy Creek area;
- *Modifications to existing flood controls* in the Wellington Planning Scheme are proposed for Rosedale, Port of Sale, coastal areas from Seaspray to Loch Sport, land surrounding Lake Wellington and floodplains of the Thompson and Avon Rivers.

Specific details of land affected by new and modified flood controls are shown on the maps that form part of the Amendment. An overview of the area affected by the Amendment is shown in Appendix A.

#### **3.2 Details of the Amendment**

The Amendment is described in a Wellington Shire Council officer report as follows:

*Amendment C33 proposes to apply the updated/new flood overlays to areas known to be affected by mainstream flooding during a 100-year ARI (average recurrence interval) flood. The FO will be applied to areas that are likely to convey active flood flows and/or store floodwaters to hazardous depths, while the LSIO will generally be applied to areas that are subject to mainstream flooding but have a lower flood risk than areas in the FO.*

*The application of these updated overlays will assist Local Government and Catchment Management Authorities in carrying out more effective planning and management of land affected by flooding.*

*The FO and LSIO will require that a planning permit be obtained from Council for most developments prior to commencement. Each planning permit application will be assessed on its merits, with the WGCMA*

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*acting as a Referral Authority to assist Council in the consideration of applications. A planning permit may be issued with or without conditions (detailing matters such as building floor levels) or may be refused. If a planning permit application is refused, it is possible to have the decision reviewed by the Victorian Civil and Administrative Tribunal (VCAT).*

*The Amendment is required to modify existing flood overlays in the Wellington Planning Scheme to reflect new flood extents established by the East and West Gippsland Catchment Management Authorities, as well as Wellington Shire Council. These extents are representative of current and best available scientific data and are based on numerous studies, including the Flood Data Transfer Project (DSE 2000), the Rosedale Flood Warning Upgrade Project (GHD 2002), the Gippsland Lakes Flood Level Modelling Project (CEAH 2004), the Port of Sale Hydrological Study (SMC 2004), aerial flood photography taken during major floods in 2001 and 2007 (WGCMA) and detailed topographical data (LiDAR) captured by DSE during 2008.*

*In contrast, the flood extents reflected in the Planning Scheme's current overlays are in many cases incomplete or inaccurate. Amendment C33 aims to correct this state of affairs by applying more appropriate controls in identified locations. Specifically:*

*The FO will be applied to areas recognized as having the greatest risk and frequency of being affected by mainstream flooding, especially areas that convey active flood flows or store floodwater to hazardous depths; and*

*The LSIO will generally be applied to areas affected by mainstream flooding that have a lower risk of flooding and are outside the FO boundaries. Additionally, in accordance with the VPP Practice Note "Applying the Flood Provisions in Planning Schemes", the LSIO will also be applied to areas where flooding extents have been established, but depth and velocity of flooding are unknown.*

*Although these areas experience less severe flooding and are subject to less stringent planning requirements, it is emphasized that some property damage may occur.*

*The use of the updated flood overlays will ensure that development maintains the free passage of floodwaters, minimizes flood damage, is compatible with flood hazard and local drainage conditions, and will not cause any significant rise in flood levels or flow velocities.*

The proposed overlays are based on various sources available to Council and the WGCMA which have progressively improved the quality of flood mapping over a number of years. The data used, its suitability and the level of accuracy attributable to each is discussed in Chapter 7.

## 4. Planning context

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This chapter of the Report considers the policy context for the Amendment and focuses on the strategic and policy issues. It assesses how the Amendment meets the objectives of the Planning Scheme. The following sections of this Report include a brief appraisal of the State Planning Policy Framework (SPPF), the Municipal Strategic Statement (MSS) and Local Planning Policy Framework (LPPF), and the appropriate zone and overlay controls.

There are many planning policies that are in some way applicable to the consideration the Amendment. The submissions from Council set out the details of the relevant policies and the Panel notes that other submitters did not take issue with what was put forward in this regard. Accordingly, the Panel does not propose to set out the details of all the policies that may be relevant; rather, the Panel will refer to them as appropriate in the relevant sections of the Report.

### 4.1 Legislative framework

The *Planning and Environment Act, 1987* sets out the following legislated principles:

#### 4 Objectives

- (1) *The objectives of planning in Victoria are—*
  - (a) *to provide for the fair, orderly, economic and sustainable use, and development of land;...*
  - (f) *to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
  - (g) *to balance the present and future interests of all Victorians.*

In addition, section 6 of the *Planning and Environment Act, 1987* specifies what a planning scheme can provide for including but not limited to:

- (1) *A planning scheme for an area—*
  - (a) *must seek to further the objectives of planning in Victoria within the area covered by the scheme; ...*
- (2) *Without limiting subsection (1), a planning scheme may—...*

*(e) regulate or prohibit any use or development in hazardous areas or in areas which are likely to become hazardous areas;*

References to these objectives, and what a planning scheme may provide for, were made in several of the submissions to the Panel in relation to the burden of proof being on the WGCMA to demonstrate that identified overlay areas will alter floor levels (Ms Rizza).

In response to this issue, the Council submitted that:

*The Amendment actively acknowledges the Responsible Authority's ability and responsibility to adequately identify hazards within the municipality, and to regulate use and development within it to ensure that all people are provided with a safe environment. The identification of Shire areas that are subject to flooding responds directly to this requirement, as does the proposed Amendment, which aims to ensure that development within identified areas is appropriately designed and located.*

As discussed in Chapters 7, 8 and 9, the Panel considers that, generally, the proposed overlays have sound and/or sufficient technical basis and have been applied correctly and equitably.

## **4.2 Policy framework**

### **4.2.1 State Planning Policy Framework**

When placed on exhibition, the following clauses of the State Planning Policy Framework (SPPF) were considered relevant to the proposed Amendment:

- Clause 15.02 - Floodplain management
- Clause 15.08 - Coastal Areas - which includes the objective *To plan for and manage the potential coastal impacts of climate change.*

In response to the Panel's request at the Directions Hearing, the Council addressed relevant changes to the SPPF resulting from the 'policy neutral' amendments introduced via Amendment VC71 in September 2010. That amendment resulted in the following clauses now setting the strategic framework for Wellington Amendment C33, namely:

- Clause 13.01 - Climate change impacts - which stipulates a planning strategy of planning for '*...sea level rise of not less than 0.8 metres by 2100...'*;
- Clause 13.02 - Floodplains.

In its submission, Council contended that '*while Amendment C33 is considered consistent with Clause 13.01, it should be noted that the Amendment maps do not include an allowance of 0.8 metres of sea level rise for several reasons...'*. These

reasons are discussed in Chapter 8 of this report. In spite of this, Council considered that it is prudent to proceed with mapping of areas that may be affected by flooding under current conditions. Council considered that the identification of coastal areas such as Port Albert and other coastal settlements susceptible to inundation and flooding under current conditions would be useful as it would ensure that development in these locations is properly considered through the planning permit process. Further, once the need for a planning permit is triggered by the proposed flood controls, Council and the WGCMA will be required to plan for climate-change-related sea level rise of at least 0.8 metres by 2100.

In relation to Clause 13.02, which has several objectives, including the protection of life, property and community infrastructure from flood hazard, Council considered that Amendment C33 implements this Clause by proposing that land affected by flooding (1 in 100 year ARI) be recognised in the Wellington Planning Scheme.

#### **Conclusion**

Having considered the relevant clauses of the SPPF, the Panel concludes that Amendment C33 supports and implements the relevant aspects of the State Planning Policy Framework.

### **4.2.2 Local Planning Policy Framework**

#### **Municipal Strategic Statement**

Clause 21 of the Wellington Planning Scheme presents the Municipal Strategic Statement (MSS) which sets out the strategic directions for land use and development within the municipality.

The 'key influences' noted in Clause 21.02 includes under the category of Environment and Heritage that *'The Shire contains areas of land that are liable to flooding.'*

Council noted that the Amendment:

*.....particularly supports Clause 21.05 (Environment and Heritage) in the following ways:*

- It furthers the objectives of the clause, which include:
  - To protect biodiversity, including important natural landscapes, endangered flora and fauna species, and indigenous vegetation on public and private land.*
  - To protect the community from natural hazards such as flooding and wildfire.**
- It aligns with the strategies specified in the clause by restricting development on floodplains and land liable to inundation.*

- *It supports implementation of the clause by applying appropriate overlays.*

### **Local planning policy**

Clause 22.08 - Ninety Mile Beach Policy - applies to the use, development and subdivision of land along the Ninety Mile Beach between The Honeysuckles and Paradise Beach. One of the objectives of this policy is:

- *To set aside areas that are **subject to inundation**, that have coastal values and that have not been substantially modified, for environmental management. (emphasis added)*

In the area covered by this policy, Amendment C33 proposes to modify the existing flood control provided by the Rural Floodway Overlay by applying the Land Subject to Inundation Overlay to these areas and the Floodway Overlay (FO) to adjoining areas of Lake Reeve.

## **4.3 Planning scheme provisions**

### **4.3.1 Zones**

There are no zoning changes proposed by this Amendment.

### **4.3.2 Overlays**

#### **Flooding overlays**

This Amendment proposes to apply updated or new flood overlays to areas known to be affected by mainstream flooding during a 1 in 100 year ARI flood. The FO will be applied to areas that are likely to convey active flood flows and/or store floodwaters to hazardous depths, while the LSIO will generally be applied to areas that are subject to mainstream flooding but have a lower flood risk than areas in the FO.

The existing Rural Floodway Overlay (RFO) will be renamed as the Floodway Overlay (FO).

#### **Design and Development Overlay**

Schedule 9 to the Design and Development Overlay applies to Port Albert and Palmerston. The overlay defines five precincts for the township and generally gives effect to the *Port Albert/Palmerston Urban Design Guidelines* (see Section 4.7). This Schedule stipulates that applications for buildings and works within the Precinct Boundary Map should comply with a range of criteria including preferred maximum height for buildings.

As the LSIO schedule requires replacement dwellings or extensions to existing habitable buildings to have floor levels at least 300mm above the 1 in 100 year ARI flood level, the operation of these two overlays would need consideration in relation to building height for certain planning permit applications in Port Albert. (Refer later discussion of Port Albert issues)

#### **4.4 Relevant Council policies**

##### **Port Albert Master Plan and Urban Design Guidelines for Port Albert**

Council's objective for the *Port Albert Master Plan* (2002) is:

*To create a nationally significant heritage port precinct by protecting, preserving and enhancing the natural and built heritage of Port Albert and encouraging sympathetic commercial and tourism investment within the port precinct.*

In April 2007, Council published *Urban Design Guidelines – Port Albert and Palmerston* (Coombes Consulting) which has been given effect in the Wellington Planning Scheme through DDO Schedule 9 (see also Section 4.3.2 of this report). These guidelines complement the *Port Albert Master Plan* in setting the future strategic vision for the use and development of land in Port Albert and Palmerston. The Guidelines provide the design objectives and guidelines (including building height and form) for each of the five precincts within Port Albert.

Precinct 1 – Heritage Tourism applies to the area known as Stockyard Point and constitutes an important part of the Town's history as a port area. The precinct is the tourist focus within Port Albert. The guidelines stipulate that buildings should not exceed a height of two storeys and should complement the roof height of the Port Albert Hotel.

#### **4.5 Ministerial Directions**

##### **Ministerial Directions**

The Minister has made a direction under Section 12(2)(a) of the *Planning and Environment Act 1987* that contains the following requirement:

##### ***Direction No. 6 Rural residential development***

*In preparing an amendment which would have the effect of allowing rural residential development, a planning authority must demonstrate and show in the explanatory report that the proposed rural residential development:*

- *Is consistent with the housing needs and settlement strategy of the area;*

- *Is supported by and supports sustainable and viable settlements and communities;*
- *Does not compromise the sustainable future use of existing natural resources, including productive agricultural land, water, mineral and energy resources;*
- *Protects existing visual and environmental qualities of the area, such as landscape, water quality, native vegetation, habitat and biodiversity;*
- *Avoids predictable adverse environmental processes and effects, such as flooding erosion, landslip, salinity or wildfire;*
- *Can efficiently be serviced by social and physical infrastructure, at an acceptable and sustainable community cost.*

By introducing flood controls based on the best currently available information, the Amendment will assist compliance with this Direction in relation to the location of rural residential development which will avoid risk of flooding erosion and other flood impacts.

## 4.6 Practice Notes

### Compliance with Practice Notes

The VPP Practice Note – *Applying the flood provisions in Planning Schemes – A Guide to Councils* is relevant to the consideration of this Amendment.

Council considered that the Amendment is consistent with the advice given in this Practice Note because it:

- *Applies the FO to areas of mainstream flooding that convey active flood flows and/or store floodwater; and*
- *Applies the LSIO to areas of mainstream flooding that may be affected by a 1 in 100 year flood, but have a lower risk of flooding than areas in the FO.*

*The LSIO is also proposed to be applied to areas subject to coastal inundation, as determined by the floodplain management authority in accordance with the advice/directions from DSE and the Minister for Water.*

Several submitters questioned the accuracy of the flood information used to delineate boundaries of the proposed overlays. This issue is discussed in Chapters 7, 10 and 12 of this report.

In other respects, the Panel considers that Council's approach is consistent with the advice presented in this VPP Practice Note.

## 4.7 Form and Content

The Minister has made a direction under Section 7(5) of the *Planning and Environment Act 1987* in relation to the Form and Content of Planning Schemes. In addition, *Using Victoria's Planning System, Chapter 9: Plain English* provides advice on form and content as do the following practice notes:

- Writing schedules;
- Using maps in planning schemes;
- Applying the Public Land Zones;
- Writing a local planning policy;
- Format of Municipal Strategic Statements; and
- Incorporated and reference documents.

Based on the assessment of the Amendment, the Panel considers that the Amendment complies with this Direction.

## 4.8 Relevant State Government Strategy Documents

### 4.8.1 Victorian Coastal Strategy

The *Victorian Coastal Strategy* is the State Government's policy commitment for coastal, estuarine and marine environments in Victoria. It provides a long-term vision for the planning, management and sustainable use of our coast, and the policies and actions Victorians will need to implement over the next five years to help achieve that vision.

The Strategy is also a framework to assist in the development and implementation of other locally and regionally specific strategies and plans such as management plans, Coastal Action Plans, and planning schemes. It identifies and responds to three significant issues affecting Victoria's coast that require specific attention:

- Climate Change
- Population and Growth
- Marine Ecological Integrity.

Under Clause 13.01-1 - Coastal Inundation and Erosion - in the SPPF, planning must consider as relevant the *Victorian Coastal Strategy* (see Section 4.2.1) particularly the requirement to plan for '*...sea level rise of not less than 0.8 metres by 2100*'.

#### 4.8.2 Coastal Climate Change Advisory Committee – Issues and Options Paper

This Coastal Climate Change Advisory Committee (CCCAC) has been tasked with considering how planning on the coast in Victoria currently operates, and whether it can meet the community's needs into the future as impacts increase in rate and intensity. This project complements the Victorian Government's flagship coastal program, *Future Coasts* being undertaken by the Department of Sustainability and Environment. In February 2010, the Committee's *Issues and Options Paper* was released for public comment.

Issues for consideration and advice sought from the Advisory Committee included:

- The operation and appropriateness of existing Victorian Planning Provisions (VPP), for example: policy, zones and overlays, in considering coastal climate change impacts;
- Other matters that the CCCAC considers relevant planning and development decisions that facilitate climate change adaptation along the coast.

The CCCAC *Issues and Options Paper* concluded that the Victorian planning system is fundamentally sound, although improvements were proposed to address the impacts of coastal climate change.

In view of the nature of sea level rise and other climate change impacts, the CCCAC considered that Victoria has time to develop a soundly based and comprehensive approach to adaptation. As a result, the Committee proposed a staged approach to improving the Victorian planning system's ability to respond to coastal climate change.

Public comment was received in early 2010 and the CCCAC is currently preparing a final report containing recommendations that will form the basis for further adjustments, changes and considerations to the planning and development provisions in Victoria. It is expected that the CCCAC's report will assist in the development of further actions and activities as part of the Victorian Government's *Future Coasts Program*. Councils in the future may take into account the recommendations of the Committee.

Although the flood mapping undertaken as part of Amendment C33 did not specifically include an allowance for sea level rise as a result of climate change, as noted in Chapter 8 of this Report, a number of submissions raised issues in relation to climate change impacts. Issues concerning climate change are also relevant to the lower catchments and coastal areas of Wellington Shire and in particular Port Albert, representing significant future matters for consideration and improved data collection.

Consequently, whilst the CCCAC is not directly relevant to this Amendment, the Panel believes it provides background context.

#### **4.8.3 Climate Change White Paper and *Climate Change Act 2010***

The Climate Change White Paper was released in July 2010 and also provides useful background to some of the issues raised by submitters. A number of initiatives in the White Paper are legislated through the *Climate Change Act 2010* which is yet to come into operation. The Act's objectives state that Government policy have regard for, among other things: managing risks to Victoria's infrastructure, built environment and communities through good planning and emergency response systems.

The Climate Change White Paper builds on initiatives already introduced in Victoria, and involves 10 priority actions which include adapting to climate change. The proposed Climate Change Adaptation Plan, yet to be released, is part of the *Climate Change Act 2010* and aims to build Victorian communities that will be more resilient to manage the effects of climate change such as sea level rise. The Plan is required by the legislation to be developed every four years, and must provide an outline and risk assessment of the potential impacts of climate change on various regions of Victoria, as well as the Government's priority areas for a State response.

## **5. Identification of issues**

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### **5.1 Approach adopted by the Panel**

In this report, the Panel has sought to broadly examine the strategic basis for the Amendment, review the technical basis for the Amendment and then address specific and locality-based issues raised in submissions.

The Panel made a number of visits to various key sites in the Shire. All site visits were unaccompanied due to the logistical difficulties in having all parties attend site inspections.

### **5.2 Issues dealt with in this Report**

The Panel considered all 139 written submissions, as well as submissions presented to it during the Hearing and some further information forwarded to the Panel after the Hearing. In addressing the issues raised in those submissions, the Panel has been assisted by the information provided to it as well as its observations from site inspections.

The general issues raised in public submissions were summarised by Council as follows:

- Land values would decrease as a result of applying flood overlays;
- Public notification was inadequate (many submitters did not receive direct notification);
- Compensation should be provided for loss of land values/development rights;
- Lack of equity:
  - Robertson's Beach and Manns Beach are not included in the Amendment;
  - The Port Albert fish & chip shop is not included in the Amendment; and
  - Bruthen Creek not included.
- Flood Data Transfer Project (FDTP) information is inadequate for defining flood overlays in Port Albert (low reliability);
- LiDAR (Light Detection and Ranging) mapping is unreliable;
- Impacts on Port Albert's:
  - Local economy and tourism;
  - Land values and property sales;
  - Heritage values;

- Community investments; and
- Ability to get insurance.
- Lack of mitigation action and infrastructure works in Port Albert;
- Potential conflict between the proposed LSIO and the existing Heritage Overlay in Port Albert;
- Physical works in Port Albert provide sufficient flood protection (works include construction of a sea wall and one-way stormwater valves, installation of rainwater tanks, sewerage and filling of land);
- Lack of clear scientific basis;
- Subsidence due to coal, oil and gas extraction;
- Fee simple rights: Concern over loss of fee simple rights;
- Explanatory Report references to climate change seen as contradictory;
- Policy: Amendment conflicts with State and local policy;
- Contradictory information – Amendment deals with ‘mainstream’ flooding, but Port Albert is only affected by tidal inundation;
- Victoria Planning Provisions (VPPs) have been used inappropriately;
- Flood Overlays cannot be applied to Port Albert, given the VPP practice note states that these are to be applied to areas of ‘mainstream’ flooding. Port Albert is not affected by ‘mainstream’ flooding, but by tidal inundation and ocean effects;
- Climate Change:
  - C33 does not consider climate change effects;
  - If a Climate Change Overlay (CHO) were applied to Port Albert in the future, it would be difficult to determine where the CHO and LSIO begin/end (submission uses information from the Coastal Climate Change Advisory Committee’s Issues and Options Paper).
- The Rosedale Strategy Plan should be amended to allow for the westerly growth of the township now that flood overlays are proposed to be removed from a large tract of land.

Specific property related issues identified in submissions related to:

- The accuracy of data used to define overlay boundaries;
- The applicability of overlays to individual properties; and
- The social and economic impact of the overlays on individual landowners.

A submission was received from VicRoads which proposed as follows:

- 
- The FO and LSIO schedules should be modified to reflect current exemptions that apply to the VicRoads South Gippsland Highway upgrade;

Gippsland Ports requested that the following exemptions be incorporated into the schedules of both the FO and the LSIO:

- Development and works associated with boating activities including marinas, jetties, boardwalks, landings, boat ramps, dredging, seawalls and groynes, beach refurbishment, swing moorings, navigational aids, beacons and signs.

This Report deals with the issues under the following headings:

- Strategic Basis for the Amendment;
- Technical Basis for the Amendment;
- How has climate change been addressed?;
- Have the overlays been correctly and equitably applied?;
- Port Albert Issues
- Social and Economic Impacts;
- Other Location Specific Issues;
- Other issues;
- The Proposed Schedules to the FO and LSIO.

## **6. Strategic Basis for the Amendment**

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### **6.1 Purpose of the Strategic Assessment Guidelines**

The purpose of the Strategic Assessment Guidelines is to provide a consistent framework for the evaluation of a proposed planning scheme amendment and the outcomes it produces.

The Guidelines require the Panel to consider:

- Why is an amendment required?
- Does the Amendment implement the objectives of planning and any environmental, social and economic effects?
- Does the Amendment comply with all relevant Minister's Directions?
- Does the Amendment support or implement the SPPF?
- Does the Amendment support or implement the LPPF?
- Does the Amendment make proper use of the VPP?
- How does the Amendment address the views of any relevant agency?
- Is the Amendment likely to have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?
- Are there any applicable statements of policy principles prepared under section 22 of the *Transport Integration Act 2010*?
- What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

### **6.2 Panel's consideration**

The Panel has considered the response to the Strategic Assessment Guidelines included in the exhibited Explanatory Report for the Amendment, together with submissions on the Flooding Overlays from Council.

As discussed in Chapter 4, the Amendment has a high level of support in the State Planning Policy Framework, Local Planning Policy Framework and the VPP.

The Panel generally endorses Council's response with the exception of the Council's assessment in relation to social and economic effects. At the

Directions Hearing, the Panel requested that Council provide at the Hearing a more detailed consideration of social and economic effects.

The Panel considers that Council's discussion on this issue in its submission was general in nature and did not really adequately respond to the substantial concern from property owners in Port Albert about the perceived and possibly real effect of the proposed introduction of the overlays on community confidence in Port Albert. This issue is discussed in more detail in Chapter 11.

The Panel considers that there are no other issues raised by an assessment against the Strategic Assessment Guidelines.

## **7. Technical Basis for the Amendment**

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### **7.1 The Issues**

The Panel has examined the data used by WGCMA and Council as a basis for Amendment C33, the accuracy of that data and whether the data is suitable to define the proposed overlays.

### **7.2 Background and Definitions**

The Amendment is comprehensive in that it entails consideration of potential flood impacts which derive from rainfall and runoff-induced mainstream flooding, as well as flooding associated with the Gippsland Lakes and flooding consequential on coastal tidal storm surge events.

**Mainstream flooding** can be defined as the inundation depths which result from terrestrial rainfall runoff around watercourses when the flows cause stream channel banks to be overtopped, giving rise to potentially damaging out of channel stream velocities and low lying land inundation.

**Tidal flooding** occurs when the coincidence of lunar peak tide events with storm surges causes inundation of low lying coastal land beyond the normal tidal range. Tidal flooding is, by its nature, of short duration but can be quite damaging to soils, infrastructure and buildings due to wave erosion, saturation and dry out and /or changes in salinity levels accompanied by corrosive influences on building materials.

**Lake and estuary flooding** is most generally associated with a downstream impact of mainstream flooding but this flooding may be exacerbated by coincident tidal storm surges such as were recently experienced at Lakes Entrance.

In defining overlays for this Amendment the WGCMA has advised that no distinction is made as to whether the flooding derives from mainstream flow, lake or estuarine flooding or from tidal storm surges. The flooding scenario appropriate to individual locations has been adopted.

### 7.3 Evidence and submissions

#### Shire of Wellington and West Gippsland Catchment Management Authority

At the outset of the Panel Hearing, technical evidence in support of the overlays was presented by Mr Wayne Gilmour of the WGCMA. His evidence addressed the technical basis for the Amendment and covered every element of the West Gippsland catchment affected by the proposed amended and new FOs and LSIOs.

Mr Gilmour noted that the first consideration of flooding susceptibility within the Wellington Shire was the *Wellington Shire Flood Mapping Project* 1996. This study was built in part upon an earlier report on *Interim Design Flooding Estimates for the Gippsland Lakes* by the State Rivers and Water Supply Commission (SRWSC).

In 2000, the earlier hydrological studies were supplemented by the *DNRE Flood Data Transfer Project* (FDTP). The FDTP was used to refine flood mapping along the Thomson, Latrobe and Avon Rivers and around the Gippsland Lakes, and to provide for new flood mapping for the Tarra and Albert Rivers, Merriman Creek, Port Albert, Tarraville and Alberton areas. Notably, the assigned reliability of the data presented in the FDTP was rated as 'low' for most areas other than around Sale and Rosedale, which were rated as 'high', and for the Latrobe River which was rated as 'medium'.

Because of the reliability ratings of the FDPT data, the Flood Data Maps were initially not recommended for use for planning purposes in the early 2000s but, in the absence of anything better, the WGCMA and Council used the data as the basis for flood mapping associated with the first RFO and LSIO delineations in the Scheme in 2000.

The philosophy of using the "*best, most credible and reliable information available*" was repeatedly stated by Mr Gilmour of the WGCMA as being the basis of all the modifications and iterations in the process of producing the amended FOs and LSIOs that are the subject of this Amendment.

Further data of hydrological significance to the development of the proposed FOs and LSIOs now under consideration was provided as follows:

- Aerial photography of floods extents in the WGCMA area in 2001 and 2007;
- The GHD report – *Rosedale Flood Warning Upgrade Project* 2002;
- The Melbourne University Centre For Environmental Applied Hydrology – *Gippsland Lakes Flood Level Modelling Project* 2004;

- SMEC - *Port of Sale Hydrological Study 2004*;
- CSIRO – *Climate Change in Eastern Victoria – Stage 3 Report 2006* Gippsland;
- Department of Sustainability and Environment – *LiDAR Topographical Study Data 2008*.

Mr Gilmour stated that the data and results presented in these reports and studies had then been used progressively in the various studies to confirm and upgrade the flood extent projections. The WGCMA then adopted and used this data as the best, most credible and reliable available information upon which to base the delineation of the FO and LSIO.

The Council and WGCMA submission included a detailed statement on the data sources that make up the technical basis for the Amendment along with an assessment of the accuracy of each source. Due to its importance in understanding the approach taken by Council and the WGCMA in developing the overlays, a full copy of this section of the presentation has been appended to this report as Appendix C.

The Explanatory Report describes the application of the proposed overlays as follows:

*Specifically:*

- *The FO will be applied to areas recognized as having the greatest risk and frequency of being affected by mainstream flooding, especially areas that convey active flood flows or store floodwater to hazardous depths; and*
- *The LSIO will generally be applied to areas affected by mainstream flooding that have a lower risk of flooding and are outside the FO boundaries. Additionally, in accordance with the VPP Practice Note “Applying the Flood Provisions in Planning Schemes”, the LSIO will also be applied to areas where flooding extents have been established, but depth and velocity of flooding are unknown.*

*Although these areas experience less severe flooding and are subject to less stringent planning requirements, it is emphasized that some property damage may occur.*

While the description in the Explanatory Report implies that only mainstream flooding has been considered; in practice no distinction is made as to whether the flooding derives from mainstream flow, lake or estuarine flooding or from tidal storm surges. In general terms, a FO has been proposed where the quality of flood data is considered by the WGCMA to be high, and 1 in 100 year ARI flood depths are expected to be greater than 0.5 metres. An LSIO has been applied to all other areas predicted to be

inundated to lesser depths or where data accuracy is not as clearly established.

Most of the submissions received derived, at least in the first instance, from disagreement with the proposed areal extent of the FO and LSIO based on the elevation and profile of the topography. This was checked where possible by the staff of the WGCMA using the latest available high definition LiDAR digital terrain data from DSE. This process was continued by the WGCMA staff right up until the Hearing. Any changes to the exhibited overlays, where accepted by the WGCMA, were in every case to reduce the areal extent of the overlays. Mr Yousuf of Wellington Shire Council advised that 17 of the original submitters removed their objections due to the changes agreed. Further commentary is made on all proposed changes to overlay boundaries (since exhibition) in Chapters 10 and 12 of this report.

Mr Yousuf noted that most of the submissions from the township of Port Albert remained unresolved because submitters objected to the imposition of an LSIO over much of the town when no such overlay had existed in the past. Submitters also disagreed with the LSIO on the grounds that a realistic basis did not exist in respect to the 1 in 100 year tidal inundation elevation used and consequently it was excessive in its extent. The Port Albert submissions are discussed in Chapter 10. Similarly, V Rizza and M Rizza (submissions 127 and 128 and 137 and 138) remained unsatisfied with the elevation basis and with other aspects relating to the imposition of the FO and LSIO over Lake Reeve and two properties they own in that area. These matters are discussed in Chapter 12.6.

## 7.4 Discussion

The technical reliability of the mapping of the areas proposed to be subject to the overlays is one of the major issues for the Panel to consider.

Of the 139 submissions received, all but a few raised this issue either directly, or by relating anecdotal experience challenging the assessments put forward by the WGCMA which formed the basis for the extent of the proposed FO and LSIO.

Specifically, 99 submissions were received from the Port Albert, Gelliondale and Tarraville area (95 for Port Albert alone), most of which disputed the need for and the magnitude of the 1 in 100 ARI tidal events which were at the basis of the LSIO proposal for Port Albert and Tarraville.

The Amendment specifically delineates FO and LSIO which derive from what was referred to as "*mainstream and tidal flooding*" in submission 84 (Ms Vida Sobott). These two sources of flooding derive from different influences, these being:

- Mainstream flooding – where heavy rainfall produces surface runoff which flows into streams and rivers. When there is a large amount of run-off, water overflows the banks on to adjacent low lying land causing flooding (VPP Practice notes definition in Submission 84); and
- Tidal flooding or inundation – where seasonal, climatic and oceanic influences combine to create storm surges at elevations that are unusually high and/or persistent in time, sufficient to give rise to the inundation of low lying coastal land.

Current Australian flood planning policies require that the 1% Annual Exceedence Probability (AEP) or, as they are more commonly known, the 1 in 100 year ARI flood event is used for design purposes. The magnitude of these events is determined using a variety of hydrological techniques and the predictions are more or less accurate dependent upon the availability and reliability of fundamental data available for analysis.

The Panel understands from the evidence of the WGCMA that defining areas of Flood and Land Subject to Inundation overlays involves application of standard techniques of hydrology to estimate the extent, depth, duration and return periods of flooding resultant from rainfall events in the case of mainstream or terrestrial flooding; and seasonal and climatic events in the case of tidal events.

Hydrological techniques are preferentially based upon time-based physical data including rainfall, stream gauge heights (hydrographs) and tidal records combined with landform (topographic data) and catchment condition (vegetation and substrate friction) assessments.

Stream flow records from stable gauged monitoring stations are converted into runoff volumes representing mainstream flood hydrographs. Flow concentration times within individual catchments are then determined and these data, when combined with evaluations of landscape and stream channel topography and characteristics, allow flood extent maps to be developed for individual stream flow events in any catchment. These data are then brought together using hydrological models which interpolate flood extent between rated stream flow gauge stations with the peak of the flood hydrograph being routed down and across the cross sectional area of the catchments to create areal continuous flood depth and inundation maps.

In the case of tidal inundation, and to a lesser degree, lake and estuarine systems, the hydrographs deriving from tide and flood gauge stations are routed across waterways and marginal coastal areas under the influence of winds, channel flow and tidal maxima, as affected by variations in barometric pressure and lunar phases. The tidal/flood maxima then become

hydrograph heights which can be routed in the same way as terrestrial stream flow hydrographs to indicate areas of flooding or shallow inundation.

The frequency or flood return periods are assessed preferably from a significant mass of hydrological data collected over a substantial period of time from reliable rainfall, stream gauging and tidal stations. These data are then converted to stream flood peak heights across the catchment relevant to related rainfall events, in the case of terrestrial stream flow, OR, for tidal inundation, the relation of tide heights to coincident seasonal and storm influences including wind strength and barometric pressure.

Plotting recorded stream heights and tidal maxima against time allows frequency distribution records to be created. Using tested statistical approaches such as Monte-Carlo simulation, this allows projection of stream flow and tidal maxima frequency data out to selected statistical return periods such as the 1 in 100 year ARI and, in the case of the terrestrial/mainstream flooding, to flood heights and therefore peak flood extents down the catchment.

There are many sources of uncertainty and inaccuracy in hydrological data. These include:

- The extent to which rainfall station data represents the totality of the catchment;
- The degree to which the stream gauging sites are geometrically stable under all flow conditions and the accuracy of the flow velocity/ flood level ratings of these sites;
- The accuracy of the flood plain elevation mapping;
- Variations in catchment runoff characteristics over time as events such as forest clearing and regrowth, bushfires, crop variations and urban development take place.

The impact of these sources of inaccuracy in modelling flooding extents decrease over time, as longer periods of data become available and as flood mapping results and other data (such as aerial photography, debris line mapping and local photography and experience), and statistical techniques are used to calibrate, verify and confirm flood extent results derived through modelling.

The accuracy of flood mapping is greatly enhanced where floods of a magnitude equivalent to the significant projected annual return period floods (1 in 5, 1 in 50, 1 in 100 ARI) are experienced and where digital elevation modelling accuracy is improved. These last two phenomena were outlined in the evidence presented by Mr Gilmour of the WGCMA in respect to the 2007 floods and the advent of the high definition LiDAR elevation

mapping done as part of the evaluation of the coastal strip of Victoria between 0 and 10 m AHD .

In particular, the 2007 flood was estimated to be equivalent in flow to a 1 in 100 year ARI. Coincident aerial photography and subsequent ground truth studies of this flood event undertaken by the WGCMA provided a very sound basis for verifying previous mapping which had been based upon flood modelling using over 100 years of rainfall data but only about 25 years of stream flow and lake level gauging (*CEAH Gippsland Lakes Flood Level Modelling Study, 2004*).

Ultimately, the areal extent of FO and LSIO derive from assessments by WGCMA of the maximum elevation to which the 1 in 100 ARI flood flow is determined to reach as it passes down the catchment. These flood levels are subject to increased flow as a consequence of local run off and stream flow confluences, and subject to volumetric losses in inundating the low lying areas of the catchment. Accurate topographic mapping is therefore critical in estimating flood extent.

In the case of the West Gippsland catchment, the availability of high resolution LiDAR data collected as part of the climate change coastal mapping program by DSE has been most advantageous and timely (even though it largely became available after the exhibition of this Amendment and has enabled subsequent proposed reductions in the extent of the overlays in certain areas).

The LiDAR system involves the use of lasers to determine the distance from the instrument to a target. For terrain mapping purposes, an airborne LiDAR system is typically composed of a sensor; an Inertial Navigation system monitoring the pitch, roll and altitude of the aircraft (and thereby the directional orientation of the laser); and a differential GPS receiving unit (which determines the location of the laser scanning system in three dimensional space). A laser scanner emitting pulses at 10,000 times / second can record 600,000 points every minute. The accuracy of LiDAR data in creating a digital elevation model (DEM) is then dependant upon the flying height speed and the scan angle.

High resolution mapping was specified for the DSE coastal mapping program. Document 7 (*Product Description Vicmap Elevation Coastal 1m DEM & 0.5m Contours* - provided by Ms Rizza) shows the accuracy to be vertically +/- 10cm and horizontally +/- 35cm. WGCMA informed the Panel that the data they received was in the form of 1m DEM in which the accuracy of the elevation is within 0.1m for 68% of each 1m square area (graticule). The data variability the Panel were informed is statistically "normal". Thus +/- 0.1m represents one standard deviation. It follows from statistical theory for Normal data populations that 99.9% of the 1.0m square graticules

determined by the LiDAR survey are therefore within +/- 0.2m of the true elevation. This is an excellent accuracy for flood mapping given all the other potential sources of error in flood height mapping.

The Panel found the technical assessment of the various data sources used by Council and the WGCMA in preparing the overlays very useful (attached as Appendix C). The assessment provides a very thorough description of the data and how it has been applied. The Panel accepts the statements made regarding the level of accuracy of each type of data.

The Panel accepts that all of these sources are suitable for defining flood overlays of some type but, depending on the level of accuracy assigned to each data source, some discretion is required in the type of overlay to be applied. Where accuracy of data is low, an LSIO is more appropriate.

Taking the above discussion into account, the main outstanding unresolved submissions can be addressed specifically from a technical basis as follows: (This issue is also further discussed in Chapters 10 and 12 of this report in relation to specific submissions.)

#### **Lake Reeve – Loch Sport Area**

- Refer submissions 127, 128, 137 and 138, Documents 6 to 17 submitted during the Hearing and additional correspondence between 30 November and 7 December 2010 on behalf of M Rizza and V Rizza.
- The Panel has considered what LiDAR data has been used and is clear in its understanding that the product used is that described in Document 7 – *PRODUCT DESCRIPTION - VICMAP ELEVATION – Coastal 1m DEM & 0.5m Contours* dated January 2009.
- The Panel also accepts the evidence presented by WGCMA that it used this data appropriately in the form of the 1m DEM in determining the areal extent of the FO and LSIO proposed by the Amendment.
- The Panel accepts that the elevation accuracy of the data for over 99% of the graticules is better than +/- 0.2m and can be accepted as +/- 0.1m of the indicated AHD elevation at any point around the boundaries of the FO and LSIO presented within Amendment C33. As a consequence of the acceptance of this situation, the Panel considers that the Rizza submissions on the accuracy of the LiDAR data elevations and how the data accuracy should be applied are incorrect. The subsequent interpretation of the data presented by Ms Rizza is a distortion of the data reliability and is not in any way a reasonable interpretation of how the data

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provided by the DSE Coastal Mapping program from the LiDAR surveys should be applied.

#### Port Albert Area

- The Panel inspected the Port Albert area and recognizes that such flooding as may threaten the areas within the FO and LSIO as proposed in the Amendment is entirely from tidal storm surges – there are no non-marine sources of flooding in this area. The Panel also recognizes the susceptibility of this area to possible future constraints upon development due to climate change-induced sea level rise.
- Consideration has been given to the several reports (Camp, Scott & Furphy – *Drainage of Port Albert - Palmerston*, 1983; SMEC – *Port Albert Drainage and Tidal Protection Study Report*, 2006 and CSIRO - *Climate Change in Eastern Victoria – Stage 3 Report*, 2006) that have sought to evaluate and determine management systems and planning parameters for the township. In general, the Panel believes that, while these reports have been professionally prepared, they have made predictions on the basis of very limited data which may not reliably represent the complexity of the marine/terrestrial/climatic interface and, consequently, the elevation of the 1 in 100 year ARI tidal storm surge event for Port Albert. The WGCMA's belief that the reliability of the CSIRO report is essentially confirmed by the fact that the elevation indicated is similar to that in the other two reports is not, in the view of the Panel, an adequate confirmation.
- All that the Panel can conclude is that the CSIRO report currently represents the best available information on which to base the mapping and proposed FO and LSIO and that, using the precautionary principle, these FO and LSIO extents should be applied until better data becomes available.
- Specifically, the Panel believes that there is need for:
  - The CSIRO report to be subjected to peer review to determine the extent to which it can be relied upon and the error margins which can be justified in resolving the FO and LSIO boundaries and extent of those boundaries, especially having regard to anecdotally identified past inundation heights;
  - The tidal relationship between Port Albert and Port Welshpool to be established firmly by the establishment of recording hydrographs and potentially the addition of wind gauging stations around the area.

#### **Other Areas – Tarraville, Manns Beach and McLoughlins Beach**

- All these centres are subject to periodic flooding from mainstream sources including the Tarra River and, to a lesser extent, tidal surge inundation. Most submitters recognised the need for the definition of FO and LSIO and at least two saw the potential for the introduction of the proposed overlays as a means for getting local flood mitigation infrastructure issues addressed by the Council.

### **7.5 Conclusions and recommendations**

The Panel concludes that, overall, the topographical data and 1 in 100 year ARI flood levels used by Council and WGCMA in setting the boundaries for the proposed overlays is sound. The Panel accepts that the WGCMA has used the best available data in all cases and appropriately used aerial photography, “ground truthing” and, in particular, LiDAR mapping to verify the accuracy of flood mapping.

The Panel recognizes the value of the LiDAR data and suggests that the FO and LSIO as currently mapped be subject to further amendment using the LiDAR data so that there is a consistent basis for the overlays throughout the Shire irrespective of whether the property owners affected have made submissions or not.

The Panel accepts the accuracy and application of the data used to define overlay boundaries in the Loch Sport area, particularly as it is supported by LiDAR data.

In relation to Port Albert, the Panel concludes that the CSIRO report (*Climate Change in Eastern Victoria – Stage 3 Report, 2006*) currently represents the best available information on which to base the mapping and proposed extents for the FO and LSIO and that, using the precautionary principle, this FO and LSIO should stand until better data becomes available. Having regard to anecdotally identified past inundation heights referred to by a large number of submitters, the Panel is of the view that the WGCMA should undertake the following further work and incorporate any findings into future refinements of the FO and LSIO:

- Conduct a peer review of *Climate Change in Eastern Victoria – Stage 3 Report, CSIRO, 2006* to determine the extent to which it can be relied upon, and the error margins which can be justified, in resolving FO and LSIO boundaries for Port Albert and other nearby coastal areas; and
- Establish recording hydrographs and wind gauging stations around the Port Albert to Port Welshpool area to provide data

which will enable more accurate determination of the tidal relationship between Port Albert and Port Welshpool.

**The Panel recommends that:**

**Amendment C33 to the Wellington Planning Scheme be adopted as amended and endorsed by Council at its Ordinary Council Meeting on 7 September 2010, but with the following recommendations for further action by the Council and WGCMA:**

*Commission a peer review of *Climate Change in Eastern Victoria – Stage 3 Report*, CSIRO, 2006 to determine the extent to which it can be relied upon, and the error margins which can be justified, in resolving FO and LSIO boundaries for Port Albert and other nearby coastal areas.*

**Arrange the establishment of sufficient recording hydrographs and wind gauging stations around the Port Albert to Port Welshpool area to provide data which will enable more accurate determination of the tidal relationship between Port Albert and Port Welshpool and from that a better estimate of the 1 in 100 ARI tidal surge height for Port Albert.**

**Conduct a review of the FO and LSIO covering Port Albert once data is available from the further work suggested above.**

## **8. Climate change**

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### **8.1 The Issue**

The flood mapping undertaken as part of Amendment C33 did not specifically include an allowance for sea level rise as a result of climate change. A number of submissions did however raise issues relating to climate change impacts and the Panel believes it is useful to discuss the matters raised.

### **8.2 Policy context of the issue**

Climate change issues are the subject of a number of government and local government policies and are the subject of many ongoing studies. As such the development of planning instruments to deal with Climate change issues is a work in progress across the State of Victoria and around the coastline in particular.

Clause 13.01 of the State Planning Policy Framework includes the objective *"To plan for and manage the potential coastal impacts of climate change"* and sets out the several strategies including:

- Plan for sea level rise of not less than 0.8 metres by 2100, and allow for the combined effects of tides, storm surges, coastal processes and local conditions such as topography and geology when assessing risks and coastal impacts associated with climate change.
- Apply the precautionary principle to planning and management decision-making when considering the risks associated with climate change.
- Ensure that new development is located and designed to take into account the impacts of climate change on coastal hazards such as the combined effects of storm tides, river flooding, coastal erosion and sand drift.

The following are also of relevance to the Amendment:

- The *Victorian Coastal Strategy* 2008 requires that not less than 0.8m allowance be made for sea level rise plus allowances for both mainstream flooding and tidal storm surges;
- The Coastal Climate Change Advisory Committee documented in its *Issues and Options Paper* in February 2010 that significant sea level rises have been recorded both globally (1.8mm/annum since

1961 and at 3.1mm/annum since 1993) and locally (Stony Point and Lorne at 2.8 and 2.4 mm/annum respectively since 1961 and 1993). However, the Report noted that there remains uncertainty about the magnitude of sea level rise but not about the continuity of sea level rise into the foreseeable future. The report also noted the potential for coastal erosion and for more intense storms with the potential to cause increased erosion of coastal and stream environments;

- The implementation of the Climate Change White Paper and *Climate Change Act, 2010* are also likely to have direct consequences for planning controls for coastal communities;
- A letter from the Minister for Water dated 17 December 2009 which emphasized the responsibility for CMAs to provide advice to their relevant Councils regarding the introduction of planning instruments to inform and trigger identification of the risks arising from climate change issues such as flooding. The Minister's letter makes reference to the ongoing DSE Coastal Vulnerability studies. These studies are progressively gathering more reliable data on topography, bathymetry, geology and erosion influences (floods, tidal surges and waves) so that interim guidelines can be introduced. In the meantime the Minister set out preliminary guidelines regarding development in coastal areas subject to flooding.

### 8.3 Evidence and submissions

The only substantive submission on climate change issues was given by the Council and WGCMA albeit that these matters were clearly in the minds of many of those who made submissions and who presented submissions before the Panel (Ms Donna Eades, Mr Neil Avery, Ms Vida Sobott amongst others).

Council and WGCMA argued that, as with the Wellington Planning Scheme Amendment C50, "*it was premature to respond to these issues until the Department of Sustainability and Environment (DSE's) Future Coasts Project and the Minister for Planning's Coastal Climate Change Advisory Committee (CCCAC) have been completed.*" (Council and WGCMA Submission to the Panel Hearing – page 48).

Essentially Council's position is that Amendment C33 is a step along the way to addressing a multiplicity of issues in relation to planning for flooding and climate change, most of which are as yet inadequately defined for the development of appropriate planning tools. Other interim tools, such as the 0.8m allowance for sea level rise required by the *Victorian Coastal Strategy*, are

applied to floor levels in respect to any coastal development applications and a range of other overlays and policies exist to control development.

The exclusion of climate change issues from Amendment C33 was expressly stated in:

- the Explanatory Report - Wellington Planning Scheme - Amendment C33 (page 5 of 7);
- the presentation given at the Community Information Sessions; and
- the Submission of Council and WGCMA to the Panel Hearings (pages 7 and 9).

## 8.4 Discussion

There is growing international acceptance of the likelihood of climate change occurring worldwide. This probability is lead by the UN International Panel on Climate Change (UNIPCC) which reports regularly on this matter. At the same time there remains considerable uncertainty over the extent and rate of changes that are likely. Many significant gaps exist in monitoring and monitoring records that would allow projection of the impacts from those of the present data set to a modified data set, as a result of the growing influence from climate change.

UNIPCC modelling indicates that climate change issues will include:

- induced sea level rises;
- consequent coastal erosion, especially where coastal systems are vulnerable due to high energy storms, easily erodible coastal materials and/ or a lack of sources of coastal sediment nutrition;
- decreased rainfall, (especially in South Eastern Australia) but increased frequency of high intensity storms;
- increased water table levels consequent upon sea level rise and complementary rises in estuaries and coastal lakes.

These issues are considered by the Panel to be relevant to the lower catchments and coastal areas of Wellington Shire. They represent significant matters for future consideration and especially for improved data collection.

The Panel accepts that it is not essential to address climate change issues as part of Amendment C33. These issues extend substantially beyond sea level rise and tidal surge flooding. The magnitudes of these issues are subject to studies, such as those on coastal vulnerability, which are being undertaken by DSE and the Coastal Climate Change Advisory Committee. The results of these studies should better define the issues more locally for a significant planning period ahead within the near future. In the interim, the application of existing controls including the 0.8m allowance for sea level rise (as

proposed to be implemented by the WGCMA and Council) should ensure that inappropriate development can be curtailed.

By comparison, the hydrological data, in most cases, seems more reliable in respect to the hydrological records that exist, especially now that the LiDAR data has improved significantly the reliability of topographic elevation data.

It is recognized that this step by step approach to seeking rational responses to climate change-induced issues is the cause of considerable concern to the affected communities. Property owners have their plans and investments placed into, at the very least, an uncertain future. This is, however, an inherent problem in the process of developing planning and infrastructure responses to the present vagaries of climate change effects. The Panel cannot see any easy solutions. For Council to act prematurely could compromise the development of more effective solutions in the future.

At this time, the Panel is of the opinion that Council is not in a position to be able to rationally prioritize areas where infrastructure protection might be first considered. The Panel, however, recommends that Council enter into a dialogue with the coastal communities with a view to prioritising actions to provide protection from mainstream flooding and future sea level rise. The eventual decisions need to be informed by the coastal vulnerability studies. This community engagement should act to involve the community in the process as well as prepare and inform the community of the decisions ahead when better data in relation to both flooding and sea level rise becomes available.

## **8.5 Conclusions and recommendations**

The Panel concludes that it is not essential to include allowance for the effects of climate change into mapping for Amendment C33. The best planning responses to climate change cannot be determined whilst the uncertainties of the data on climate change implications remain.

**It is recommended that Council and the WGCMA:**

**Consider further engagement with the community to discuss issues relating to coastal climate change and the infrastructure protection and adaptation decisions that may be required in the future.**

## **9. Have the overlays been equitably applied?**

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### **9.1 The Issue**

A number of the submitters from Port Albert raised concerns that overlays had been applied to Port Albert but not to Robertsons Beach, Manns Beach or Yarram. These submitters considered that this was unfair or inequitable.

### **9.2 Policy context of the issue**

There is strong policy justification for Amendment C33 in Local Planning Policy Framework Clauses 13.01 - Climate Change Impacts - and 13.02 - Floodplains - as discussed in Chapter 4. As also discussed in Chapter 4 the Principles for Planning in section 4 (1) of the *Planning and Environment Act 1987* 'provide for the fair, orderly, economic and sustainable use, and development of land'.

In particular, Clause 13.02 of the Local Planning Policy Framework, which has several objectives including the protection of life, property and community infrastructure from flood hazard, provides the main rationale for Amendment C33.

### **9.3 Evidence and submissions**

A number of the submitters from Port Albert (including Dick Whittaker – Submission 66, Matthew Goulden – Submission 72, Rhonda Stevens – Submission 73, Mark Goulden – Submission 72, Margaret Goulden – Submission 78, Alan and Carol Hobson – Submission 76, Valda Napier – Submission 91, Rhonda Cahill – Submission 92, Ingrid Black – Submission 94, Joanne, Raylene and Amanda O'Loughlan – Submission 95, Christa Whittaker – Submission 96, Richard Whittaker – Submission 97, Geoffrey John Salter – Submission 101, Helen Jones – Submission 103, Norman J Hanna – Submission 109, Dana Irving Zangas – Submission 120) raised concerns that overlays had been applied to Port Albert but not to Robertsons Beach, Manns Beach or Yarram.

The WGCMA submitted that, in all cases, the best available information had been used to map flood overlay boundaries. The WGCMA also submitted that overlays have not been applied where no hydrological or accurate topographic mapping is available. The WGCMA outlined plans to progressively map remaining unmapped areas over the coming years using new and more accurate data as it becomes available. The WGCMA

presented a number of cases where changes are now proposed to the exhibited overlays as a result of closer examination of information provided by submitters.

#### **9.4 Discussion**

As detailed in Chapter 7, the Panel is generally comfortable that the data used for mapping is of sufficient quality to justify the proposed overlays. While it is recognised by the Panel that the non-application of FO or LSIO to areas where no data is available may give the impression of lack of equity, the Panel accepts that there is no alternative to this approach at this time. The Panel supports the Council and WGCMA view that there is value in implementing controls now, even if they may require further modification or addition at a later date and the application of similar controls to additional areas as relevant data is produced. The Panel believes that this approach is consistent with the intent of the precautionary principle.

The WGCMA presented a number of cases (including from Airly, Alberton, Bundalaguah, Gelliondale, Muddy Creek, Heyfield, Loch Sport, Maffra, Rosedale, Sale, Tarraville, Tinamba, Willung and Wurruk) where it was agreed to alter the overlay boundaries based on submissions by the landowner and/or closer examination of topographical information. In particular, LiDAR data was used in a number of these cases to better define overlay boundaries on particular properties. This raised the question with the Panel whether other properties where owners had not lodged submissions should be similarly reassessed in the light of the new information.

The Panel accepts that Council and WGCMA needs to 'draw a line' somewhere in relation to the extent of the changes made to the exhibited overlays, but also believes that it is important that any new or higher quality data should be equitably applied to achieve the best possible flood control framework.

#### **9.5 Conclusions and recommendations**

The Panel accepts that the proposed FO and LSIO have been appropriately applied based on the information available at the time of preparation of the Amendment. The Panel also notes that further, more accurate information on flood mapping is becoming available on a progressive basis and that the overlay boundaries could and should be refined (either reduced or extended as appropriate) as better information becomes available.

The Panel suggests that the Council and WGCMA regularly review the best available data and conduct a regular program of systematic updates to flood overlays across the Municipality. The Panel suggests a review and update

via planning scheme amendment every two or three years would be appropriate until all mapping is available to the same high degree of accuracy. The Panel recognises that this is a significant resource commitment but the Panel believes such regular review is necessary given the rapid changes in the quality of the available mapping data and the evolving need to address existing propensity to flooding of areas of the Shire and the impacts of climate change.

**The Panel recommends that Council and the WGCMA:**

**Regularly review the best available flood mapping data and further update the flood overlays across the Wellington Shire as required.**

## **10. Port Albert**

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### **10.1 The Issues**

The issues for Port Albert relate largely to the imposition of the LSIO over much of the town area as a consequence of the determined 1 in 100 ARI tidal flood surge.

The many submissions from the Town were well summarised by the presentations to the Panel Hearing held in Yarram. They identified a significant amount of anecdotal information on tidal surge experience in the community, as well as identifying the economic and social consequences already being evidenced as a result of the proposed extent of the Amendment.

The issue of land use and development constraints arising from the imposition of the LSIO were presented as being of concern to the community and to the investments made as a consequence of the encouragement of Port Albert as a tourist destination based on its background as an historic port.

### **10.2 Policy context of the issue**

Schedule 9 to the Design and Development Overlay (DDO9) in the Wellington Planning Scheme applies to Port Albert and Palmerston. The overlay defines five precincts for the township and generally gives effect to the *Port Albert/Palmerston Urban Design Guidelines* (see Chapter 4.4 of this report). Schedule DDO9 stipulates that applications for buildings and works within the Precinct Boundary Map should comply with a range of criteria including preferred maximum height for buildings. In both the Heritage Tourism and Secondary Tourism precincts which cover the central part of Port Albert where most businesses are located, the preferred maximum height criteria is stated as *Buildings should not exceed the height of the Port Albert Hotel*.

As the LSIO Schedule requires replacement dwellings or extensions to existing habitable buildings to have floor levels at least 300mm above the 1 in 100 year ARI flood level, the provisions of DDO9 and the LSIO would need consideration in relation to determining building height for certain planning permit applications in Port Albert.

## 10.3 Evidence and Submissions

### Port Albert Residents

The Panel heard evidence at the Hearing in the form of submissions from seven parties, namely;

- Ms Donna Eades representing the Port Albert Progress Association
- Mr Michael Glebov – Hooked Inn Cottages
- Ms Dianne Hogan - Resident
- Mr Terry Batson – Resident
- Ms Susan Scott for herself and Mr Emmet Green – Residents
- Mr Warren Curry – Resident
- Messrs Gary and Neil Avery – Residents

These submissions were representative of the many others sent in by mail. Many submissions reflected concerns over the impact of the LSIO on the ongoing development of Port Albert and the social and economic stresses that the proposed LSIO is perceived to have created within the community (see also Chapter 11).

Other submissions raised concerns about: the impact of climate change; the perceived inequity of application of the overlays; problems with notification and consultation processes; and compensation for loss of land value. These issues are dealt with in other chapters of this report as they have broader application than Port Albert.

A number of locally specific anomalies in the application of the overlays raised by Port Albert residents were corrected by the WGCMA following the application of LiDAR data to the mapping of the overlay, including some reduction in the area covered by the LSIO. Other properties that have recently been filled, including Ms Susan Scott's (Submission no. 59), were acknowledged and removed from the overlay area.

Several submitters also raised concerns that the Fish and Chip shop on Stockyard Point had been excluded from the overlay.

Community members recognize their vulnerability to climate change-induced sea level rise. They were concerned that the LSIO does not address climate change and there appears to be no commitment by Council to implement mitigating facilities such as those recommended in the SMEC report *Port Albert Drainage and Tidal Protection Study, 2006* or in the earlier

Camp, Scott and Furphy report *Drainage of Township Port Albert – Palmerston*, 1983.

Port Albert residents are concerned that they have received conflicting messages as to what development would be permitted within areas subject to the LSIO and specifically what floor level elevations would be permitted and whether maximum roof height levels would be flexible.

Significantly, anecdotal evidence was provided to the Panel from a number of long time Port Albert residents that historic extreme floods had never reached even close to the 1.75m AHD which is at the basis of the LSIO. Specifically, many submissions commented from local knowledge of the protected nature of Port Albert, especially in comparison to Port Welshpool which is the nearest other location at which tide heights are currently measured.

A presentation was made to the Panel by Mr Gary Avery, who stated that he was a former Senior Scientist from CSIRO. Along with comments as to points which could be surveyed in order to confirm anecdotal reports of past extreme tides, he questioned the accuracy which could be achieved in modelling the tidal extremes in area marine environment as complex as Corner Inlet. He noted the complexity of the islands and tidal channels, the complex topography potentially influential on wind directions and velocities, all of which he felt would have to be simplified in order to create a stable model which could generate model results.

Mr Avery's statements were supported by both Mr Batson and Mr Hobson in commenting on the impacts of sand bars which protect Port Albert compared with Port Welshpool.

Mr Avery noted that the tide height projections were developed in the absence of local tidal records and that the anecdotal evidence from Port Albert did not appear to have been used in the modelling. Subsequent flood frequency determination would then derive using statistical techniques such as Monte-Carlo simulation varying tidal influences. At the end of this work, the outcome would then be considered to be the best data that could be generated even though the model would not have been either calibrated or verified against local extreme tidal event records such as those referred to by other Port Albert residents in their submissions. His opinion was that the CSIRO report would not have been approved for release had international expert peer review been undertaken. On these bases, he did not believe the modelling could be presumed to be sufficiently accurate to be used as a basis for the LSIO.

Mr Avery finally noted that tidal inundation, were it to occur into the areas proposed to be covered by the LSIO, would be slow and relatively gentle.

Other presenters (Mr Curry) also noted that until such time as the existing sea walls were over topped, the inflow would be slow and even thereafter would be of short duration and height as it inundated low lying land previously protected by the sea wall.

Council and the WGCMA responded to the Port Albert residents by saying that they agreed that the 1959 and 1963 extreme tide events only reached to about 1.55m AHD but this was probably because they represented higher frequency extreme tidal surge events than the 1 in 100 year tidal surge event. Their basis for this assumption appears to have been that three separate technical reports between 1983 and 2006 had concluded that the 1 in 100 year ARI tidal surge would be to a height of between 1.73 and 1.80m AHD under current climatic conditions. As these levels are within the range of the CSIRO estimation specifically for Port Albert, the CSIRO's 2006 1 in 100 year ARI is adopted as the best and most reliable basis for the LSIO.

Mr Gilmour at the Panel Hearing noted the CSIRO report provided a basis for assessing the floor level for buildings within the LSIO. He acknowledged that some inaccurate advice had been given in the past regarding required floor levels and sought to correct this understanding as follows:

*1 in 100 year ARI flood height for Port Albert i.e. 1.75m  
+ 0.8 m minimum allowance for climate change sea level rise  
+ 0.3 m C33 Schedule building height clearance above an LSIO  
= required floor level of 2.85 m AHD for Port Albert.*

In respect to the possibility of implementation of mitigation works, Council responded that:

*No specific works are proposed at this point in time. This is partly due to the fact that Council will better need to understand the implications of coastal climate change prior to considering physical works.*

Council also noted that there were no plans to install a tide gauge at Port Albert on the seaward site of the sea wall but that it is a matter that could be considered outside this Amendment.

## 10.4 Discussion

As set out in relation to Port Albert in Chapter 7.4 of this report, the Panel is mindful of the very substantial uncertainties the community is confronted with as a consequence of the proposed FO and LSIO. The Panel also recognizes that potential exists for further impacts to arise as a consequence of climate change-induced sea level rise. It sees the CSIRO 2006 report as being, at present, the best advice on tidal surge heights and ARI frequencies specifically for Port Albert. As such, despite the social and economic stresses

which exist, it is important for Council and WGCMA to have planning instruments that incorporate the precautionary principle in determining future developments in this township.

Submitters expressed concern about the potential for restrictions on building heights in Port Albert resulting from the combination of the nominated increased floor level of 2.85 m AHD with limits on building height deriving from the application of DDO9. The Panel considers that, given the somewhat vague wording of the relevant section of DDO9, Council should exercise some flexibility with building heights to enable developers to achieve built form outcomes that both achieve flood protection as well as a building form that complements the distinctive character of Port Albert. Early consultation with Council's heritage adviser would assist applicants to achieve development proposals consistent with the intent of the Heritage Overlays that apply in Port Albert. On the basis that Council has the discretion to apply some flexibility in determining building heights; the Panel considers that the proposed extent for the FO and LSIO should be supported.

## 10.5 Conclusions and Recommendations

The Panel believes that the issues raised in submissions relating to the basis and reliability of the modelling should be further pursued. Specifically, work should be undertaken to:

- Gain more relevant local data on tidal surge correlation between Port Albert and Port Welshpool, and;
- Establish the confidence limits for the projected 1 in 100 year tidal surge heights and flood durations across the area currently proposed for inclusion within the LSIO.

**Recommendations have been made in relation to these issues in Chapter 7.**

The Panel notes and supports the changes made to the overlay boundaries by the WGCMA as a result of the application of the more accurate LiDAR data. Based on the Panel's own on-site observations the exclusion of the Fish and Chip Shop on Stockyard Point does seem anomalous and the Panel is of the view that this should be checked and the area included in the overlay if on-site survey confirms that the area is below the 1 in 100 year flood level.

**The Panel recommends that the proposed FO and LSIO in Port Albert should be adopted as amended and endorsed by Council at its Ordinary Council Meeting on 7 September 2010 subject to the following:**

**Check the detailed boundaries of the proposed overlays in Port Albert to correct any apparent anomalies such as the exclusion of the Fish and Chip Shop at Stockyard Point.**

## **11. Social and Economic Impacts**

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### **11.1 The Issue**

While the Council and the WGCMA argued the community-wide social and economic benefits of properly identifying flood prone areas as a key reason for the introduction and/or refinement of the flood overlays, a range of negative social and economic issues were also raised in individual submissions opposing the introduction of the FO and LSIO on particular properties.

Some of the large number of submissions opposing the application of the FO and LSIO to areas within the township of Port Albert expressed concern about the social and economic impacts that would result for this historic township in general and on individual property owners in particular. These impacts included:

#### **Social impacts**

- Creation of reluctance and uncertainty in the community especially related to perceived decrease in property values;
- Stress and anxiety caused by what was claimed to be insufficiently researched evidence underlying the extent of the overlays;
- Perceived contradictory and unclear information about the Amendment has prompted people to place properties on the market and/or put their future in the township 'on hold';
- Impacts on elderly residents' plans to fund alternative accommodation as a result of perceived decreases in property values;
- The inclusion of Port Albert in the FO and LSIO is inequitable.

#### **Economic impacts**

- Impact on tourism, economy and survival of township;
- Development will be hindered by unwanted costs and lack of planning clarity;
- Impacts on ability to obtain insurance and development finance;
- Costs to Wellington Shire Council associated with raising of roads and other town improvements and infrastructure;
- Impacts on cost of building.

Many of the submissions from property owners in Port Albert raised concerns about negative impacts of the overlays' introduction on property

values. However, this is not a matter that can be considered from a planning perspective. (See discussion in Chapter 13.3 of this report.)

## 11.2 Policy context of the issue

The policy context for the discussion of social and economic impacts is directly provided in the State Planning Policy Framework by the first objective of Clause 13.02-1 - Floodplain management - which is

*To assist the protection of:*

- *Life, property and community infrastructure from flood hazard.*

## 11.3 Evidence and submissions

Council and the WGCMA submitted on this issue from a community-wide perspective essentially about the outcomes that would result from improved planning consideration and controls in relation to land use and development in identified flood prone areas. From this perspective, these agencies submitted that the Amendment has significant social and economic benefits to the community.

### Port Albert issues

The considerable negative reaction from permanent residents and other property owners in Port Albert related, in part, to the information base for and communication about the Amendment process, particularly during the exhibition period. This collective concern stated in many submissions is reasonably summarised in the following extract from the Port Albert Progress Association Incorporated's presentation to the Hearing, namely that:

*Development and investment has ground to a halt as many potential residential and business investors are nervous about Port Albert's future and its ability to adapt and develop to suit present day community needs.*

*The C33 Amendment has created much unrest in our community, creating the potential for huge economic and social loss within the broader community. This is reflected in the social impacts of people fearing what the C33 Amendment really means to the future of our town.*

Council submitted that some, if not all, of the uncertainty about the effects of the introduction of the FO and LSIO over parts of Port Albert derived from 'mixed messages' from Council during the exhibition phase. In its final submission, Council sought to clarify the position in relation to the effect of the flood overlays on Port Albert as follows:

- Port Albert is subject to some level of ocean inundation;

- Council and the WGCMA consider that the CSIRO report (see also Chapter 7) provides the best estimate of the 1 in 100 ARI flood and derived flood free floor levels of 2.85 metres. Floor levels have changed as better information has become available to Council and the WGCMA.

Council submitted that its intention with Amendment C33 is to avoid the situation where any houses in Port Albert are inundated and that the referral provision under the flood overlays would increase certainty about setting floor levels in Port Albert for future development.

## 11.4 Discussion

### Port Albert – social and economic impacts

As many of the issues raised in submissions in relation to social and/or economic impacts in Port Albert are inter-related, these issues are considered in an integrated manner in this section.

In its inspection of Port Albert and environs, the Panel observed a number of 'for sale' signs on properties within the areas affected by the proposed flood overlays. While a number of submissions asserted a direct connection between the perceived 'property slump' in Port Albert and the exhibition of Amendment C33, this assertion was not supported by any reliable information presented to the Panel. Mr Glebov (107) in his presentation to the Panel suggested that the property slump in Port Albert was bought on partially by Amendment C33 as well as by the global financial crisis.

The Panel considers that the extent to which the current property market circumstances in Port Albert represents a different situation than would apply in the absence of Amendment C33 is impossible to determine in spite of community views supporting the manifestation of this impact. It is reasonable to accept that the uncertainty that was generated by the 'mixed messages' flowing from the exhibition period is likely to have contributed to some property owners in Port Albert reassessing their situation and placing their properties on the market. Equally, the Panel is aware that holiday townships such as Port Albert usually have a range of properties on the market.

The Panel accepts that there has been uncertainty and anxiety experienced and is continuing to be experienced by some property owners in Port Albert in relation to the proposed extent of the flood overlays. The reduction in the extent of these overlays proposed by the WGCMA and accepted by Council may have reduced this uncertainty and anxiety to some extent. However, the Panel perceived that there is probably a wider-ranging anxiety pervading the Port Albert community related to the combined effects of climate change,

the need to plan for sea level rise and continual media coverage of these issues elsewhere in coastal Gippsland. The flood overlay issue has undoubtedly compounded this anxiety and uncertainty about the future of Port Albert.

The Panel acknowledges the community's desire for certainty and clarity about the flooding issue so that new investment can continue to be attracted to Port Albert. Given the technical complexity of arriving at data that can be considered 'certain' in relation to the tidal regime which affects Port Albert, the Panel considers that Council is adopting a reasonable position in using the best available information and progressively upgrading or refining related planning controls. What appears to be at fault in relation to Amendment C33 as it applies to Port Albert is the consultation process implemented, rather than the technical assessment underlying the extent of the overlays.

The Panel believes that Council should give consideration to a more focussed and on-going consultation process with the Port Albert community in relation to planning for flooding and climate change as well as other relevant planning matters. Establishment of a Community Reference or Consultative Group or a similar structured community group would provide a means of ensuring a regular two way information flow between Council and the community about planning, environmental, social and other matters of importance to the Port Albert community.

## **11.5 Conclusions and recommendations**

The Panel concludes that improved consultation and communications processes together with use of the best available technical data would reduce the extent of real and perceived social and economic impacts in similar future situations.

**The Panel recommends that Council and the WGCMA:**

**Consider the establishment of a Community Consultative Committee to represent the Port Albert community (and potentially other communities) in planning, environmental and social matters relating to flooding and climate change issues.**

## **12. Other Location Specific Issues**

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### **12.1 Alberton**

#### **12.1.1 Evidence and Submissions**

One written submission, from BR and MM Stackhouse (Submission 134), was received in relation to the proposed Amendment at Alberton. Mr and Mrs Stackhouse disputed the overlay on the south side of the Muddy Creek and Albert River. They stated that during the floods of 1996, although the South Gippsland Highway was blocked at the Albert River Bridge near Alberton, the land south of the River on their properties was not flooded.

In response to this submission, the WGCMA re-examined the LiDAR data and agreed to the requested modification.

In addition, the WGCMA advised that two other landowners affected by mapping changes in Alberton, who were not submitters to the proposed Amendment, independently contacted the WGCMA about the proposed Amendment. The first of these landowners was concerned that the flood mapping did not exactly match his experience of flooding on his properties, while the second landowner raised the point that some high land not prone to flooding was captured by the flood mapping.

The WGCMA advised that the 1 in 100 year ARI flood level estimates in these locations were based on flood photography and video from an event in 1998. Using LiDAR data and estimates of the local 1 in 100 year ARI flood level (2.4m AHD), the WGCMA agreed to modify the extent of the LSIO and FO mapping. After consultation with one landowner, the LSIO was slightly increased on part of his property. The WGCMA understood that both landowners were happy with the revisions.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

#### **12.1.2 Discussion**

The Panel accepts that the proposed minor changes to the LSIO and FO as a result of these discussions are an improvement on the exhibited mapping.

#### **12.1.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **12.2 Bundalaguah**

### **12.2.1 Evidence and Submissions**

In relation to the proposed overlays for Bundalaguah, one submission from Mr Garnet Sedman (Submission 8) was received. Mr Sedman requested modification of the proposed LSIO and FO, stating that it covered parts of his property at Smiths Lane which had not previously flooded.

The WGCMA re-examined the aerial flood photography, together with aligning flood levels recorded from the 2007 floods (12.3m AHD at this location) with LiDAR data, determining that some small areas of land near the old house and shed could be removed from the FO and LSIO.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

### **12.2.2 Discussion**

The Panel accepts that the proposed minor changes to the LSIO and FO as a result of these discussions are an improvement on the exhibited mapping.

### **12.2.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **12.3 Gelliondale**

### **12.3.1 Evidence and Submissions**

One submission, from Mr Sam Peluso (Submission 3), was received regarding Gelliondale and Muddy Creek. Mr Peluso believed that while the flood maps were good, some minor adjustments could be made. He believed that having lived in the area for many years the flooding that has occurred is further down to the south. His requested changes would have involved moving the LSIO to an adjacent property.

The WGCMA responded that the LiDAR data did not fully support Mr Peluso's suggested changes. In addition, the WGCMA further studied the LiDAR data and resolved that the mapping and suggested changes were not robust enough to continue with the application of the LSIO along this part of Muddy Creek. Accordingly, this part of the Amendment was abandoned.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

### 12.3.2 Discussion

The Panel accepts the WGCMA's reasons for deleting the LSIO in this location.

### 12.3.3 Conclusion

The proposed changes should be incorporated into the Amendment.

## 12.4 Golden Beach

### 12.4.1 Evidence and Submissions

Five submissions were received in relation to Golden Beach. Mr Joseph Sagona (Submission 69) was concerned that development in the area may be prevented and about the lack of disclosure prior to his purchasing the block that the area may be flood prone. Mr Ron Evans (Submission 99) commented on a lack of communication by the Council and requested compensation, as did Mr and Mrs John and Olga Zammit (Submission 112). Mr Nazzareno Cicolaci (Submission 106) requested guidance as to the meaning of the proposed amendments, while Mr Matteo Gallo (Submission 1) objected with no comment.

In response to the concerns raised by several submitters that the Golden Beach area was not flood prone, the WGCMA reviewed each submission, and matched the 1 in 100 year ARI flood level (1.9m AHD) from the Gippsland Lakes Flood Level Modelling Project (CEAH 2004) against the LiDAR data for the area. The WGCMA held the view that that all of the subject areas were found to be vulnerable to flooding in a 1 in 100 year ARI event, and therefore the flood overlays remained appropriate.

In its submission, the Council explained that several parts of the Ninety Mile Beach between Glomar Beach and Paradise Beach (including parts of Golden Beach) are currently affected by a development moratorium. To address this issue, Council is progressing work on the *Wellington Coast Subdivisions Implementation Package*. Issues related to the development moratorium are a separate matter to Amendment C33 and are being addressed through a separate process.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

### 12.4.2 Discussion

The Panel accepts the information provided by Council and WGCMA and that the proposed FO on the exhibited mapping is appropriate.

### **12.4.3 Conclusion**

The exhibited mapping should remain unchanged.

## **12.5 Hollands Landing**

### **12.5.1 Evidence and Submissions**

One submission (Submission 2) was received from Mr Joe Patti in relation to Hollands Landing, who requested compensation.

In its submission, Council stated that Hollands Landing is highly flood prone, with aerial photography showing that most properties were inundated in July 2007, which was 'only' about a 1 in 20 year ARI flood event at this location. Council added that Hollands Landing is currently affected by a Restructure Overlay (RO), which requires that all lots contained within specific numerical categories be consolidated into a single ownership prior to development being approved. Accordingly, Council does not have the legal ability to issue planning permits that do not comply with the RO, which currently makes it difficult for many landowners to develop their properties. Given that the RO controls were lawfully introduced in the 1970s, Council does not propose to provide any compensation for the imposition of these restrictions.

### **12.5.2 Discussion**

Compensation is not a matter for consideration by this Panel.

### **12.5.3 Conclusion**

No changes to the proposed Amendment are required.

## **12.6 Loch Sport – Ocean Grange**

### **12.6.1 Rizza submission**

The Panel received very comprehensive submissions from V and M Rizza (Submissions 127, 128, 137, 138) regarding Lots 2 and 10, Loch Sport. The subject lots are currently subject to an LSIO, Environmental Significance Overlays and Wildfire Management Overlays. The Amendment proposes to apply a FO to significant portions of the lots and retain an LSIO on other portions. Mr and Mrs Rizza were represented at the Panel Hearing by Ms Aisha Rizza who presented a number of arguments in support of her submission that the overlays should be removed from the land until further more detailed mapping had been completed and the WGCMA had proven the risk of flooding. With the permission of the Panel, Ms Rizza also

provided further information after the Hearing in order to fully respond to any issues raised by the WGCMA and Council during the Hearing. The main arguments of the submission are summarised below, with the response of the WGCMA and Council shown as appropriate, and the Panel's comments as required.

**The proposed overlays are a control not merely a trigger for referral.**

Ms Rizza submitted that the proposed overlays impose a control over private property and therefore the proposed Amendment needs to be assessed on a conservative basis and considered with great care. This was not disputed.

**Inappropriate to apply the 1.9m Lake Victoria Flood levels to Lake Reeve.**

Ms Rizza submitted that the *Gippsland Lakes Flood Level Modelling Project Final Report 2004*, as used by WGCMA, includes the Lake Victoria side of Loch Sport but excludes the Lake Reeve side of Loch Sport. Ms Rizza cited the lack of direct reference to Lake Reeve in the lists of water level recorder locations. Ms Rizza claimed that there is a natural barrier across Lake Reeve near the Honeysuckles that prevents flow along the Lake from Merriman Creek. Ms Rizza further submitted that Lake Reeve has different characteristics to Lake Victoria and is frequently dry.

Council, in its submission, noted the *Gippsland Lakes Flood Level Modelling Project Final Report 2004*, undertaken for the CMAs by the Centre of Environmental Applied Hydrology (CEAH) at the University of Melbourne, which was peer-reviewed on two occasions by a panel of Australia's leading experts in statistical hydrology and hydrodynamics. The Peer review concluded that "...the estimates of flood levels for the Gippsland Lakes with annual exceedence probabilities of 1 in 20, 1 in 50 and 1 in 100 years provide a sound and defensible basis for planning". In 2006, following some misinterpretation of the outputs by landowners at Loch Sport, the head of the CEAH team that undertook the project, Professor Rodger Grayson, issued a clarification, in relation to flood levels at Loch Sport, stating: "*The 1.9 level should be adopted for both sides of the town of Loch Sport [i.e. the Lake Victoria and Lake Reeve side]. It is possible that other influences that were not modelled such as overflow from Merriman Creek could increase the 1% level further, however these are not expected to have a major influence and so the 1.9m level should be adopted*".

With respect to any natural barrier across Lake Reeve that would prevent flow along the Lake, the WGCMA responded as follows:

*The Rizzas claim that there is a natural 'block' in Lake Reeve that would stop flood flows from Merriman Creek from flowing through*

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*to Loch Sport. This is simply incorrect, with LiDAR data showing the highest land in the bed of Lake Reeve between the two locations at about 1.4m AHD (near the Honeysuckles). The 1 in 100 year ARI flood level on the eastern side of Seaspray is 2.0m AHD (caused by flooding in Merriman Creek).*

*Seaspray is serviced by a flood mitigation scheme that incorporates a feature known as the Lake Reeve Floodway. This floodway aims to divert floodwaters away from the town and into Lake Reeve, hence its name. The crest of the weir allowing spill from Merriman Creek to the floodway is at 2.2m AHD and flood levels exceeding 2.4m AHD have been recorded in this area.*

In response to the statement that Lake Reeve is a different sort of Lake to Lake Victoria, the WGCMA agreed but stated that this had no bearing on the fact that it would flood from time to time. In support of this the WGCMA presented photos showing the Loch Sport and Track 10 causeways inundated in 2007.

The Panel accepts the application of a 1.9m flood level to Lake Reeve on the basis of the information provided by the WGCMA. While it is noted that there was no monitoring gauge in Lake Reeve at the time of preparation of the *Gippsland Lakes Flood Level Modelling Project Final Report 2004*, Lake Victoria and Lake Reeve share a broad connection with the rest of the lake system at Sperm Whale Head. It is also noted that no allowance has been made in the 2004 modelling for additional inflows from Merriman Creek, making the application of a 1.9m 1 in 100 year ARI flood level for Lake Reeve potentially underestimated. The Panel accepts that the photographic evidence presented by the WGCMA clearly showed that flood waters flow freely and across a broad path along Lake Reeve in a flood event.

#### **The impact of the 2003 and 2006/07 bushfires on streamflow.**

Ms Rizza submitted that the 2003 and 2006/07 bushfires exacerbated the effect of the 2007 floods and that the filling of Lake Glenmaggie (and subsequent release of flood waters) impacted on flows downstream of the Lake. She stated that it is therefore inappropriate to use aerial photographs taken by the WGCMA following the June/July 2007 floods as a basis upon which to represent the true effects of a 1 in 100 year flood event. Ms Rizza referred to a report by Sinclair Knight Merz (SKM) *Combined Impact of the 2003 and 2006/07 Bushfires on Streamflow*, July 2009 which she submitted drew the conclusion that average annual streamflows for southern river catchments would be reduced significantly over the next 25 years and would only return to no-fire flow rates after approximately 100 years. Ms Rizza concluded that no

flood overlays should be applied for at least another 100 years until this effect had diminished.

In his response, Mr Gilmour agreed that the 2007 floods were exacerbated by the bushfires, however this does not change the estimate of 1 in 100 year flood event from below Lake Glenmaggie (and 1 in 300 year flood event from above Lake Glenmaggie). He drew a distinction between bushfire effects on streamflow and bushfire effects on floods, stating that floods in the SKM report represented mean annual streamflow but not flood events. He stated that run off for larger rain events and therefore flooding levels were therefore not significantly affected.

The Panel agrees that there does seem to have been some confusion in relation to the interpretation of the reports cited by Ms Rizza. Whilst the SKM Report does draw some conclusions about average annual stream flow, no such conclusions are made about flood events. The Panel does not accept that there is any basis for Ms Rizza's conclusion that flood controls should not be imposed until 100 years has passed.

**Inappropriate to apply FO or LSIO unless evidence of mainstream flooding.**

Ms Rizza submitted that the WGCMA has a burden to produce evidence that the areas identified in Lots 2 and 10 (for application of a FO) are hazardous or are likely to be hazardous if the proposed flood level and proposed overlays are not imposed.

In response, the WGCMA again referred to the *Gippsland Lakes Flood Level Modelling Project Final Report 2004* peer-review which concluded that "...the estimates of flood levels for the Gippsland Lakes with annual exceedence probabilities of 1 in 20, 1 in 50 and 1 in 100 years provide a sound and defensible basis for planning". The WGCMA submitted that this, combined with the more accurate LiDAR data, has allowed accurate definition of areas liable to flooding.

The Panel accepts the appropriateness of the modelling relied upon by the WGCMA in setting the 1 in 100 year ARI flood level and accepts that the LiDAR data is appropriate to provide a sufficient level of accuracy to define overlay boundaries.

**Inappropriate to rely on Digital Elevation Modelling in the June 2004 report.**

Ms Rizza submitted that the Digital Elevation Modelling that was relied on to prepare the initial flood mapping was not sufficiently accurate.

The Panel notes that the WGCMA has since verified the mapping using the more accurate LiDAR data at Loch Sport. In some cases minor amendments were made to the flood mapping to allow for improved information.

#### **Failure of public land managers to mitigate effects of flooding.**

Ms Rizza asserted that a flood overlay should only be imposed on private land if other action, such as increased infrastructure for flood mitigation, has been taken to minimise flooding.

The Panel notes that Council and WGCMA have committed to continued improvement of flood modelling data and further changes to mapping in the future if required. The Panel was advised that the Council has an on-going program of flood mitigation work (which is subject to budget constraints) and this was currently under review given the evolving information on the likely effects of climate change. With this in mind the Panel does not accept that it is appropriate or practical to hold off on any controls on private land until mitigation works are completed.

#### **Accuracy of LiDAR data.**

In her presentation to the Panel Hearing, Ms Rizza challenged the accuracy of the LiDAR data used by the WGCMA to establish the boundaries of the FO and LSIO. It became apparent to the Panel at the Hearing that Ms Rizza had misunderstood the nature of the LiDAR information used by the WGCMA and her conclusions presented to the Panel on the levels that should be applied are therefore not relevant.

As discussed in Chapter 7 of this Report, the Panel is satisfied that the LiDAR data used to establish the overlay boundaries is sufficiently accurate for this purpose.

#### **Charter of Human Rights and procedural fairness issues.**

Ms Rizza expressed concern that the proposed Amendments did not comply with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

The Panel is of the view that all parties were accorded their right pursuant to section 18 *Charter of Human Rights and Responsibilities Act 2006* to participate in public affairs when they appeared and presented submissions to the Panel.

Ms Rizza further suggested that other parties may have been denied procedural fairness by not being given the opportunity to be heard on a

weekend and by the Council and the WGCMA not fully disclosing the limitations of the methodology used to develop the overlays.

The Panel does not agree that there has been any denial of procedural fairness. The Panel has considered all submissions including those that were not directly presented to the Panel Hearing. The Panel also provided the opportunity for all parties to be heard on a flexible basis. Only one party who expressed a wish to be heard advised that they could not attend on the Hearing dates; however the Panel allowed a further written submission to be presented from that person in order to clarify their position. Ms Rizza was given a further 12 days after the Panel Hearing to provide the Panel with any further information in response to any matters raised at the Hearing. Accordingly, the Panel believes that Ms Rizza and all other parties were given adequate and sufficient time to be heard.

#### 12.6.2 Other Submissions

Three additional submissions were received in relation to Loch Sport. Mr Dennis Wright and Mrs Mary Wright (Submission 18) questioned the lack of current infrastructure to address flooding issues. Mr Derrick Robson (Submission 19) considered that their property may be devalued and stated that during the 2007 floods the water level reached only 300mm below floor level. Mr and Mrs S J and R W Armishaw (Submission 136) were concerned about aspects of the consultation process.

In relation to these issues, the WGCMA advised that two minor modifications were made within the town of Loch Sport – one to exclude a small isolated depression that has no connection to the Gippsland Lakes system and one to modify the FO in response to a concern expressed by a landowner from Loch Sport who did not make a formal submission to Amendment C33.

In relation to the area south of Loch Sport, the WGCMA noted that this area is covered by the LSIO in the current Wellington Planning Scheme. In general, the overlays proposed by Amendment C33 change some of the LSIO to FO. After analysing the LiDAR data matched to the 1 in 100 year ARI flood level estimate of 1.9m AHD from the *Gippsland Lakes Flood Level Modelling Project*, the WGCMA agreed to some minor modifications to the mapping of the area. The proposed changes were accepted by Council post-exhibition.

In relation to Ocean Grange, Mr Graeme L Hubbard of PPP Consulting (Submission 45), acting as trustee for Ninety Mile Beach No 2 Unit Trust, was concerned that the material used for formulating the Amendments was not made readily available, providing insufficient communication to the trust

unit holders. Mr Hubbard mentioned that grazing should be allowed without permit application in areas where there is an FO and an LSIO overlay in the Rural Conservation Zone (RCZ), and that tree cropping should be permitted in areas subject to the FO and LSIO overlays within the RCZ. He also stated that Council is responsible for upgrading public roads in line with 1 in 100 year floods. He also stated that where there is a total prohibition on land use that land should be removed back into public ownership and generous compensation should be paid to the land owners concerned.

### **12.6.3 Discussion**

A large number of issues were raised in a comprehensive submission from Mr and Mrs Rizza. The Panel has discussed its response to each of the issues in turn under section 13.6.1 above.

The Panel accepts the application of the LiDAR data in this location to support to changes the exhibited overlays.

In relation to Mr Hubbard's submission the Panel has made general comments on the issues of consultation and compensation in Chapter 14.

### **12.6.4 Conclusion**

The changes to the FO and LSIO as proposed by the WGCMA and endorsed by Council for Loch Sport and Ocean Grange should be incorporated into the Amendment.

## **12.7 Maffra**

### **12.7.1 Evidence and Submissions**

Beveridge Williams made a submission on behalf of the Estate of G.T. Blackie who own Lots 2 to 5 and from C & L Weatherley (Submission 116) who had recently purchased Lot 1. They also provided a submission on behalf of T A Dent (Submission 132). The submissions questioned the extent of the C33 flood mapping and requested a review. After reviewing the scaled vertical aerial photography from the 2007 floods, the WGCMA agreed to make small amendments to the LSIO mapping on these properties.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

### **12.7.2 Discussion**

The Panel accepts the proposed minor changes to the LSIO as a result of these discussions are an improvement on the exhibited mapping.

### **12.7.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **12.8 McLoughlins Beach**

### **12.8.1 Evidence and Submissions**

Two submissions were received in relation to McLoughlins Beach. Mr Richard Telling (Submission 62) stated that his land should not be subject to a FO, as it has not experienced flooding and is higher than the township of McLoughlins Beach.

Ms Diana Botelho provided both a written (Submission 125) and a verbal submission to the Hearing. Ms Botelho supported the Amendment and raised a number of issues. She stated that McLoughlins Beach requires a flood Emergency Plan and considered there was a flooding risk to other towns in the area, including Robertson's Beach. Ms Botelho was concerned about the impacts of the construction of the WSC McLoughlins Beach Road and Drainage Scheme No. 9806 on her property, particularly in relation to the excavation of a drain connecting north to south of Foreshore Road and Beach Drive (running parallel with Seaward Street). Furthermore, she considered that the Wellington Shire Council Feasibility Study for McLoughlins Beach Boat Ramp did not take into account other environmental issues such as that parts of McLoughlins Beach fall within the Ramsar Convention on Wetlands of International Importance.

In its submission, WGCMA stated that McLoughlins Beach is subject to inundation from overland flow from Bruthen Creek, as well as from the ocean. Following requests from the local community, the WGCMA mapped the area using a combination of flood photography from 1993, matched to an advanced preliminary copy of LiDAR data that was only available for McLoughlins Beach. The mapping was subsequently included in Amendment C33.

The WGCMA was able to obtain advance copies of preliminary LiDAR data for McLoughlins Beach in mid 2008 and this was used, together with flood photography from 1993, as the basis for flood mapping in that town.

The proposed changes to the mapping were included in the changes adopted by Council.

### **12.8.2 Discussion**

The Panel accepts the application of the LiDAR mapping in this location to support the change to the exhibited overlays.

### **12.8.3 Conclusion and Recommendation**

The proposed changes should be incorporated into the Amendment.

## **12.9 Myrtlebank**

### **12.9.1 Evidence and Submissions**

One submission was received in relation to Myrtlebank, from Mr Jeremy Venables (Submission 41). Mr Venables' property was included in the Amendment in its entirety, and he requested that the overlay be removed from the higher land where his house is located.

The WGCMA responded by stating that the LiDAR data indicates that all of the property will flood in a 1 in 100 year ARI event and the WGCMA therefore proposed no change to the exhibited overlays. The WGCMA also considered that access to the property in the event of a flood may present as a major issue.

### **12.9.2 Discussion**

The Panel accepts the WGCMA's data on this property and the retention of the overlay.

### **12.9.3 Conclusion**

No change required to exhibited overlay.

## **12.10 Newry**

### **12.10.1 Evidence and Submissions**

One submission, from Dr Vivian Waller, was provided in relation to Newry (Submission 100). Dr Waller requested that the Amendment exclude the house, driveway, sheds and paddocks on the western side of the driveway from the FO, stating that the property did not have a history of flooding.

The WGCMA did not specifically respond to the Newry submission, however stated in the Hearing that where a particular area is not mentioned, the Amendment has not been changed.

### **12.10.2 Discussion**

The Panel accepts the application of an overlay on this area but suggests that the area covered by the overlay be reviewed once more accurate data is available.

### **12.10.3 Conclusion**

No change required to the exhibited overlay.

## **12.11 Paradise Beach**

### **12.11.1 Evidence and Submissions**

In relation to Paradise Beach, Mr Paul Fisher provided a submission (Submission 9) objecting to the flood overlay map boundary.

The WGCMA reviewed each submission for Paradise Beach, matching the 1 in 100 year ARI flood level (1.9m AHD) from the Gippsland Lakes Flood Level Modelling Project against the LiDAR data for the area. The WGCMA found that all the properties were flood prone and did not make any changes to the Amendment. In addition, the WGCMA highlighted that several parts of the Ninety Mile Beach between Glomar Beach and Paradise Beach (including parts of Golden Beach) are currently affected by a development moratorium. To address this issue, Council is progressing work on the *Wellington Coast Subdivisions Implementation Package*. Issues related to the development moratorium are a separate matter to Amendment C33 and are being addressed through a separate process.

### **12.11.2 Discussion**

The Panel accepts the application of the LiDAR mapping in this location to support the exhibited overlays.

### **12.11.3 Conclusions**

No change required to the exhibited overlays.

## **12.12 Rosedale**

### **12.12.1 Evidence and Submissions**

Several submissions were received in relation to Rosedale. Mr Phil and Mrs Kerrie Logan (Submission 129) requested that the boundaries of the exhibited LSIO and FO for their property be moved further to the east, referencing LiDAR mapping provided by the WGCMA. They also provided additional

information prepared by the surveyor SMEC Urban requesting a review of the Rosedale Strategy Plan to encompass a westerly aspect.

Based on this additional information, the WGCMA agreed to alter the boundaries of the LSIO and FO in line with Mr and Mrs Logan's request. In doing this, the WGCMA matched the 1 in 100 year ARI flood level (17.4m AHD) from the *Rosedale Flood Warning System Project* (GHD 2002) to new topographical data from the ground survey, confirmed by LiDAR.

Council did not support the suggestion that the Rosedale Strategy Plan should be amended to allow for the westerly growth of the township, stating that future growth directions for Rosedale should be considered as part of a future structure plan project and are outside the scope of the Amendment.

In his submissions, Mr John Agostino (Submissions 102 and 117) considered that through his observation of water flows, knowledge of the landscape and first hand experience of more recent floods, that water flow would not travel south of the Rosedale-Longford Road.

In response to Mr Agostino, the WGCMA commented that the land in this area is outside the boundaries of the *Rosedale Flood Warning Study* and therefore not covered by the LiDAR project. The exhibited C33 mapping in this area was transferred from DSE's 2000 *Flood Data Transfer Project*, which was based on aerial photography. The WGCMA also consulted a flood photograph from 1978 that, whilst not covering the subject property, indicated that a substantial volume of water is likely to traverse this property in a major flood event.

The WGCMA agreed with Mr Agostino's assertion that the property is unlikely to flood from the Latrobe River. However, the WGCMA was confident that the property floods from Blind Joes Creek as it lies on the natural drainage path between Blind Joes Creek and the Latrobe River, stating that the outputs of the *Rosedale Flood Warning Study* lend weight to this. The WGCMA was not, however, convinced that there is enough information available to support the delineation of the FO and decided to remove the FO from this area, from the boundary of the flood study to the Latrobe River floodplain. Accordingly, the LSIO remained as exhibited.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

Mr Michael and Mrs Elaine Shaw (Submission 4) were concerned about limitations to their ability to develop on their land. The WGCMA did not respond to this in its submission and no changes to the mapping were proposed as a result of LiDAR data.

### **12.12.2 Discussion**

The Panel accepts the application of the LiDAR mapping in this location to support the changes to the exhibited overlays as proposed by the WGCMA.

The Panel agrees with Council's response to the issues raised by Mr and Mrs Logan in relation to a westerly expansion of Rosedale i.e. this issue is not the subject of Amendment C33 and would be appropriately dealt with as part of any future review of the Rosedale Strategy Plan.

### **12.12.3 Conclusion**

The proposed changes to overlay boundaries should be incorporated into the Amendment.

## **12.13 Sale**

### **12.13.1 Evidence and Submissions**

Mr Nick Anderson of NBA Group provided two submissions in support of the Amendment, on behalf of clients Mr Graeme Dyer (Submission 6) and Mr Jeremy Fleming (Submission 7). Mr Dyer's submission stated that given that moves are underway to rezone the site for development at the Dyers Transport Depot for Residential purposes in accordance with Council's strategic vision for the area, the LSIO provisions are more accommodating than those which currently exist under the RFO. Mr Fleming's submission considered that the LSIO would help facilitate his proposal to rezone and develop a section of land along the southern side of Stevens Street.

Submissions not in support of the Amendment were received from CC and A Bollen (Submission 10), Beveridge Williams on behalf of Mr Chris Curnow (Submission 121) and Beveridge Williams on behalf of A & K Joyce (Submission 133). Mr Bollen submitted that the proposed Amendment covers land that is not affected by floodwaters and, because of its elevation, water would not cover this land. In relation to Mr Curnow's submission, Beveridge Williams provided maps of 2007 surveys of the land which demonstrated that the WGCMA mapping conflicted with this work. A & K Joyce's submission indicated that they supported the proposed Amendment, however suggested that mapping of the extent of the land may not be correct.

In response, the WGCMA used LiDAR data to refine the flood mapping in this area, by matching 1 in 100 year ARI flood level data against that more detailed topographical data. Consequently, small reductions were made to the extent of the LSIO mapping, whilst the FO was not modified. A & K

Joyce later withdrew their submission due to similar adjustments to the LiDAR data.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

#### **12.13.2 Discussion**

The Panel accepts the proposed minor changes to the LSIO and FO as a result of these discussions are an improvement on the exhibited mapping.

#### **12.13.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

### **12.14 Tarraville**

#### **12.14.1 Evidence and Submissions**

In relation to Tarraville, Mr Terry Batson provided two submissions (Submission 46 and Submission 135). Mr Batson owns land in Tarraville but his submissions related to both Tarraville and Port Albert. He believed that the proposed overlays were not justified by the available evidence and should be removed.

In response, the WGCMA used LiDAR data to refine the flood mapping in this area, by matching the WGCMA's best estimate of the 1 in 100 year ARI flood level against that more detailed topographical data. The 1 in 100 year ARI flood level used was 1.9m AHD, which was based on limited flood photography and video footage from a medium-sized event in 1998, with an additional amount added to bring it up to a 1 in 100 year ARI level. A 1.9m AHD level, being 0.15m above the 1 in 100 year ARI inundation level for Port Albert was considered by the WGCMA as reasonable, as Tarraville is also affected by Tarra River flood flows. The FO was also reduced around Tarraville, but to a considerably lesser extent than the LSIO.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

#### **12.14.2 Discussion**

The Panel accepts the application of the LiDAR mapping in this location to support the change to the exhibited overlays.

#### **12.14.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **12.15 Tinamba**

### **12.15.1 Evidence and Submissions**

Several submissions were received in relation to proposed overlays at Tinamba. Mr Peter Gault (Submission 53) objected to the proposed Amendment. He stated that the effects of the June/July 2007 flood event were significantly magnified by the DSE land and fire management practices causing a lack of vegetation in the Macalister catchment because of the 2006 alpine fires. He also considered that levels on his farm were increased by the removal of vegetation from the bed and banks of the Macalister River, causing artificially high levels during the 2007 flood. He held the view that levels on the northern side of his property were artificially increased by Southern Rural Water and private irrigation Water Supply Channels.

Investigation of aerial flood photography from the 2007 event, supported by video footage, showed that both properties were entirely inundated in the 2007 flood event. Therefore, the WGCMA did not make any changes to the LSIO.

Submission 139 from Ms Lorraine Robinson requested that the exhibited flood mapping be modified to reflect the fact that higher land at Fairchilds Road, Tinamba did not flood in 2007, and suggested that the aerial photographs supplied by the WGCMA supported her submission.

The WGCMA considered that the 2007 flood event at this location was representative of a 1 in 100 year ARI flood and that mapping from aerial flood photography captured at the time could generally be used as the basis of the new LSIO. The WGCMA reassessed the aerial flood photography and matched it against the LiDAR data, and agreed to reduce the LSIO and FO at this location. The WGCMA acknowledged that when the original LSIO mapping was undertaken, a misinterpretation may have inadvertently captured the higher land in the area. The WGCMA also agreed to a small reduction of the FO in this area.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

### **12.15.2 Discussion**

The Panel accepts the proposed changes to the LSIO and FO as a result of these discussions are an improvement on the exhibited mapping.

### **12.15.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **12.16 Willung**

### **12.16.1 Evidence and Submissions**

Mr Gerard Feely, although not a formal submitter to Amendment C33, contacted the WGCMA independently of the Amendment process. He was concerned that the flood mapping included some small areas of higher land that would never flood from Merriman Creek.

WGCMA inspected the area with the landowner and subsequently agreed to make some modifications to both the LSIO and FO, with the modifications to the FO being considerably smaller than the LSIO. It is understood that the landowner is happy with the modifications.

## **12.17 Won Wron**

### **12.17.1 Evidence and Submissions**

One submission was received in relation to Won Wron from G and M Laurie (Submission no. 111). Mr and Mrs Laurie submitted that their land has never flooded and cannot due to the crested creek banks in that location.

The WGCMA stated that mapping for this area was from the *Flood Data Transfer Project, 2000* and the Panel notes that this location is in the Low data reliability area. The WGCMA advised that where Low reliability data has been relied upon it has been verified by anecdotal and geomorphologic information. The WGCMA argued that the data was considered of '*sufficient quality to justify delineation*'.

### **12.17.2 Discussion**

The Panel accepts the application of the data from the *Flood Data Transfer Project 2000* in this location and accepts the proposed overlay as defined.

### **12.17.3 Conclusion**

No change required to the exhibited overlays.

## **12.18 Wurruk**

### **12.18.1 Evidence and Submissions**

Two submissions were received in relation to Wurruk. Beveridge Williams, on behalf of Jelaryl Pty Ltd (Mr D J Y Page) (Submission 131), said that Mr Page, whose property was subject in part to FO and in part to LSIO, supported the proposed changes.

Mr G E Quinn (Submission 104) sought changes to the proposed LSIO, stating it is inaccurate as there is no history of flooding to the land.

The WGCMA reassessed the flood mapping using LiDAR data matched against their best estimate of the 1 in 100 year ARI flood level at the property (4.2m AHD). This level was based on a level recorded from the 2007 floods. The WGCMA consequently reduced the extent of both the LSIO and FO for this and neighbouring properties. It was understood that the landowner was happy with the modifications.

The proposed changes to the mapping were included in the changes adopted by Council post-exhibition.

#### **12.18.2 Discussion**

The Panel accepts the proposed changes to the LSIO and FO as a result of these discussions are an improvement on the exhibited mapping.

#### **12.18.3 Conclusion**

The proposed changes should be incorporated into the Amendment.

## **13. Other Issues**

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### **13.1 Was notification of the Amendment carried out correctly?**

#### **13.1.1 The Issue**

Several submitters (49, 51, 72, 74, 78) asserted that there was insufficient notification given in relation to the Amendment or that no notification was received (82, 96).

#### **13.1.2 Policy context**

The *Planning and Environment Act 1987* (sections 17 to 19) and the *Planning and Environment Regulations 1998* (sections 8 and 9) set out the process for notification of a planning scheme amendment.

#### **13.1.3 Evidence and Submissions**

Council submitted that measures in excess of statutory requirements were undertaken to provide the community with notification of the Amendment. This included the statutory requirements of:

- Exhibition for the required period between 4 February and 18 March 2010 with the exhibition period being extended until 25 March 2010;
- Approximately 5180 letters were sent to land owners affected by the Amendment;
- Notice in the Government Gazette was published on 4 February 2010;
- Newspaper notices appeared on the following dates:
  - The Gippsland Times - 2 and 9 February 2010;
  - The Yarram Standard - 3 and 10 February 2010; and
  - The Latrobe Valley Express - 4 and 11 February 2010.
- Written notification to prescribed Ministers (3) and agencies (19).

Communication measures beyond statutory requirements were:

- Community Information Sessions were held on 13, 17 and 18 February 2010 at Loch Sport, Seaspray, Yarram, Sale and Maffra;

- Hard copies of Amendment C33 maps were made available for public viewing at 18 locations throughout the municipality;
- Electronic copies of the Amendment were available on the Council's website.

Ms Whitaker (Submission 96) submitted that, although she had received notification, she was aware that several other community members did not. She indicated that most residents became aware of Amendment C33 through word of mouth and the Progress Association meeting on 14 March 2010 which was a few days before the close of the exhibition period.

#### **13.1.4 Discussion**

The Panel is satisfied that Council complied with the statutory notification requirements set out in the Act and Regulations. The Panel is aware that Council extended the exhibition period by a week to provide more time for submissions to be made. Given the scale of the Amendment, the number of property owners potentially affected and the proportion of absentee property owners (particularly in the coastal townships), it is not surprising that several land owners claimed not to have received direct notification. While this is unfortunate, the Panel considers that there were sufficient other notification measures undertaken for property owners to have been aware of the Amendment.

#### **13.1.5 Conclusion**

The Panel concludes that the required statutory notification was correctly and appropriately undertaken by the Council in relation to Amendment C33.

### **13.2 Consultation**

#### **13.2.1 The Issue**

Several submitters (49, 72, 74, 78, 101, 126) asserted that there was insufficient information given or consultation undertaken in relation to the Amendment.

#### **13.2.2 Policy context**

While the Act and Regulations set out the required notification, section 19(7) of the *Planning and Environment Act 1987* states that a planning authority may take any other steps it thinks necessary to tell anyone who may be affected by the Amendment about its preparation.

### **13.2.3 Evidence and Submissions**

Council submitted that, in addition to the statutory notification requirements, it undertook additional consultation, principally Community Information Sessions held on 13, 17 and 18 February 2010 at Loch Sport, Seaspray, Yarram, Sale and Maffra. As well, officers of both Council and the WGCMA were generally available during and after the exhibition period to respond to queries from landowners.

Some submitters (74 in number) considered that there was a lack of community consultation undertaken and only community information was made available. The opportunity to consider options to the imposition of overlays was thought desirable as was consultation prior to decisions being made and information provided to the community.

A number of submissions questioned the extent and veracity of information which underlies the definition of the overlays. This issue is largely related to the technical content of the information base rather than consultation processes and is addressed in other Chapters.

### **13.2.4 Discussion**

The Panel recognises that Council undertook a series of community meetings to present the Amendment to property owners and residents and to provide the opportunity for responses to questions. While there can always be more consultation, a Council needs to tailor consultation activities to the issue under consideration and the resources available.

The Panel was advised by Council that, due the unavailability of WGCMA personnel to attend the Community Information Session at Yarram, some incorrect information about the nature of flooding in Port Albert may have been inadvertently provided. This situation may have contributed to the anxiety and uncertainty experienced and continuing to be experienced by some property owners in Port Albert (see Chapter 10).

### **13.2.5 Conclusion**

The Panel concludes that the Council undertook additional consultation activities beyond statutory requirements in relation to Amendment C33. The Panel notes that, in similar consultation activities for future extensive and/or technically complex amendments, Council should give careful consideration to the planning of consultation activities to ensure that the appropriate personnel and resources are available for consultation activities.

### **13.3 Land Values and Compensation**

#### **13.3.1 The Issue**

A number of submitters raised concerns about the impact of the proposed Amendment on the value of their land and some submitters suggested that the Council should compensate them for loss of property value or loss of potential to develop the land.

#### **13.3.2 Policy context**

Apart from compensation payable as a result of actual acquisition of land which has been identified under a Public Acquisition Overlay for a public purpose such as a new or upgraded road, Part 5 of the Act creates a right to interim compensation (known as 'planning compensation'). This occurs in certain limited circumstances stemming from the proposed future use of the land for public purposes.

No compensation is payable in Victoria for real or perceived changes in property values resulting from amendments to planning controls such as the application of the FO or LSIO. This issue has been examined on behalf of the State Government on several occasions - see the Gobbo report (1976) and the Morris report (1987).

#### **13.3.3 Discussion**

The Panel appreciates that property owners may have reasonable concerns about the impact of planning scheme changes on property values. However, the Panel also recognises that there are a multiplicity of issues that affect the value of any property at any point in time.

The Panel considers that implementation of appropriately researched planning controls assists the maintenance of stable property values for the community. In this regard, Council is discharging its responsibility as a planning authority in introducing the proposed Amendment which will enable planning applications in designated areas to be considered in relation to flooding matters and to ensure that development in these areas responds appropriately to the identified flood risk.

#### **13.3.4 Conclusion**

The Panel concludes that there is no statutory basis for payment of compensation to any affected property owners.

## **14. The Proposed Schedules to the FO and LSIO**

### **14.1 The Issue**

Several submissions queried aspects of the wording of the FO or the LSIO particularly relating to exemptions from the need to obtain planning permits for certain works.

### **14.2 Policy context**

The VPP Practice Note – *Applying the flood provisions in Planning Schemes – A Guide to Councils* provides guidance to Councils in the detailed preparation of the schedules to the FO and LSIO. In relation to the drafting of schedules, this Practice Note advises:

*Apart from the standard exemptions for buildings and works in the overlays, the schedules to the overlays can be used to exempt certain buildings and works from the need for a permit. Care should be taken when specifying types of development to be exempted, and this should be done in consultation with the floodplain management authority.*

*Exemptions in schedules should respond to local conditions, taking into account specific types of development and local needs.*

### **14.3 Evidence and submissions**

#### **14.3.1 Exemption for works for South Gippsland Highway upgrading**

VicRoads' submission noted that Amendment C33 proposed to introduce the LSIO to a section of the South Gippsland Highway between the Thompson River Caravan Park and Male Street, Sale that is currently included in the RFO. VicRoads advised that this section of the Highway forms part of the proposed flood protection and upgrade of this Highway between Swing Bridge Drive and May Street, Sale.

VicRoads submitted that Amendment C57 to the Wellington Planning Scheme which related to constructing the South Gippsland Highway upgrade between Sale and Longford known as Stage 3, Cox's Bridge (approved by the Minister for Planning on 25 February 2010) included an exemption to the requirement to obtain a planning permit for construction works within the current RFO for the highway upgrading project. As a result, VicRoads requested that this same exemption for works associated

with the project be incorporated into the wording of the schedules to both the FO and LSIO proposed by Amendment C33.

Council's response confirmed that the requested change was supported by both the Council and the WGCMA. Council indicated that the requested exemption had not been included in the exhibited schedules because these schedules had been drafted prior to the approval of Amendment C57. Council submitted that the inclusion of this exemption in both the FO and LSIO schedules would be consistent with the current exemption under the RFO which allows VicRoads to undertake works without a planning permit.

#### **14.3.2 Exemption for works undertaken by Gippsland Ports**

Gippsland Ports advised that it manages and administers the Ports of Andersons Inlet, Corner Inlet and Port Albert, Gippsland Lakes, Snowy River and Mallacoota as part of its statutory functions on behalf of the Department of Sustainability and Environment under the *Port Services Act* 1995. It is also the waterways manager over Shallow Inlet and Lake Tyers under the *Marine Act* 1988.

Gippsland Ports' responsibilities cover over 1,400 square kilometres of waterways and include a wide range of infrastructure development, boating operations and waterways management activities. In the context of its waterway management responsibilities within the Ports of Gippsland Lakes and Corner Inlet and Port Albert and as custodian of designated Crown assets related to its operational functions that Gippsland Ports submitted that the schedules to the FO and the LSIO should exempt certain works from the need for a planning permit.

Gippsland Ports requested that the following exemptions be incorporated into the schedules of both the FO and the LSIO:

*Development and works associated with boating activities including marinas, jetties, boardwalks, landings, boat ramps, dredging, seawalls and groynes, beach refurbishment, swing moorings, navigational aids, beacons and signs,*

Gippsland Ports considered that this exemption would not compromise the purpose of the overlays, which it would be reasonably expected not to apply to marine works recognising that for specific developments a planning permit may otherwise be required and consent obtained under the *Coastal Management Act*.

Gippsland Port further submitted that the planning scheme should recognise that this agency is an appointed Crown Land Committee of Management responsible for specific delegated functions including the management of Crown assets.

In addition, Gippsland Ports indicated that it had had discussion with East Gippsland Shire about the possible exemptions and is keen to ensure that particular types of waterway-related infrastructure are reasonably treated and exempt where possible. It would also appear logical that planning controls are consistent over the Gippsland Lakes.

In response to Gippsland Ports' submission, the WGCMA indicated it was not prepared to exempt the full range of works because it submitted that it should be able to consider certain works (especially marinas, boat ramps, dredging, seawalls and groynes). However, WGCMA indicated that it would be prepared to include the following exemption from the permit requirement:

*Development and works associated with jetties, boardwalks, landings, beach refurbishment, swing moorings, navigational aids, beacons and signs.*

Although initially indicating that it would appear at the Hearing, Gippsland Ports withdrew from attending and responded to the WGCMA's proposal by email on 29 November 2010 indicating that it understood the WGCMA's position and was prepared to accept this compromise wording.

#### **14.4 Discussion**

Apart from the issues raised by VicRoads and Gippsland Ports, no submissions were received in relation to the proposed new schedules to the FO and LSIO. The purpose of the new schedules is to exempt buildings and works that are not expected to adversely affect flood flows and/or levels from having to obtain a planning permit. The Panel accepts that the exemptions proposed are appropriate subject to the further recommendations set out below in relation to the VicRoads and Gippsland Ports assets.

The Panel notes VicRoads' advice that the permit exemption for highway upgrading works is already included in the Wellington Planning Scheme. The Panel acknowledges that such 'oversights' can occur when the processing of one amendment overlaps that of another earlier amendment.

The Panel considers that the wording of the FO and LSIO schedules needs to balance the ability for Council and, by referral, the WGCMA to consider the impact of certain proposed works on flood affected land with the desirability of reducing and simplifying the regulatory requirements.

Proposed buildings and works related to 'marinas', 'seawalls and groynes', and 'landings, boat ramps and dredging' could involve significant local changes to land form and water levels with resultant changes in flood behaviour and extent so it is reasonable that the Council and the WGCMA have the opportunity to comment on applications for such works. (Note: For the sake of consistency with the drafting of the FO and LSIO Schedules, the

Panel considers that the term 'buildings' should be used rather than 'development').

## 14.5 Conclusion and recommendations

The Panel recommends that the following changes should be made to the wording of the Schedules to the FO and LSIO:

**Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the FO and LSIO to include the following exemption under the heading Works:**

*A permit is not required to carry out the following:*

- *Buildings and works associated with jetties, boardwalks, landings, beach refurbishment, swing moorings, navigational aids, beacons and signs.*

**Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the FO and LSIO to include the following exemption for VicRoads works approved as part of Amendment C57:**

*A permit is not required to carry out the following:*

- *Buildings and works associated with the construction of the South Gippsland Highway upgrade (Stage 3 – Cox's Bridge) between May Street, Sale and the Thomson River Bridge (constructed as part of the South Gippsland Highway upgrade: Stage 1 – Swing Bridge Realignment), provided that the buildings and works are to the satisfaction of the floodplain management authority.*

## 15. Summary of Recommendations

Based on the reasons set out in this Report, the Panel recommends that Amendment C33 to the Wellington Planning Scheme be adopted as amended and endorsed by Council at its Ordinary Council Meeting on 7 September 2010 subject to the following changes:

1. Check the detailed boundaries of the proposed overlays in Port Albert to correct any apparent anomalies such as the exclusion of the Fish and Chip Shop at Stockyard Point.
2. Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the FO and LSIO to include the following exemption under the heading Works:

*A permit is not required to carry out the following:*

- *Buildings and works associated with jetties, boardwalks, landings, beach refurbishment, swing moorings, navigational aids, beacons and signs.*

3. Amend Clause 1.0 - Permit requirement - of the exhibited Schedules to both the FO and LSIO to include the following exemption for VicRoads works approved as part of Amendment C57:

*A permit is not required to carry out the following:*

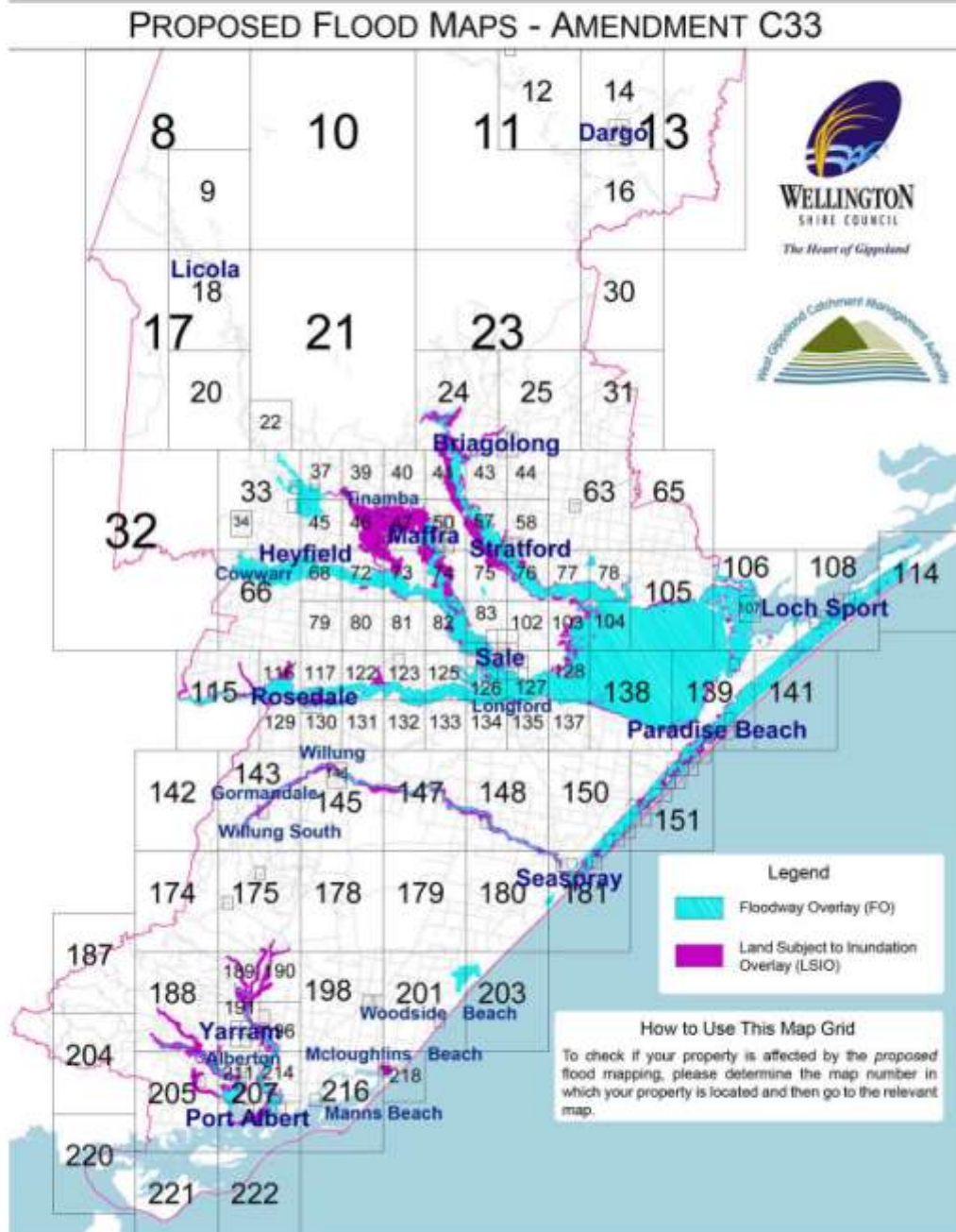
- *Buildings and works associated with the construction of the South Gippsland Highway upgrade (Stage 3 – Cox's Bridge) between May Street, Sale and the Thomson River Bridge (constructed as part of the South Gippsland Highway upgrade: Stage 1 – Swing Bridge Realignment), provided that the buildings and works are to the satisfaction of the floodplain management authority.*

The Panel makes the following recommendations for further action by the Council and WGCMA:

- C1. Commission a peer review of *Climate Change in Eastern Victoria – Stage 3 Report*, CSIRO, 2006 to determine the extent to which it can be relied upon, and the error margins which can be justified, in resolving FO and LSIO boundaries for Port Albert and other nearby coastal areas.

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- C2. Arrange the establishment of sufficient recording hydrographs and wind gauging stations around the Port Albert to Port Welshpool area to provide data which will enable more accurate determination of the tidal relationship between Port Albert and Port Welshpool and from that a better estimate of the 1 in 100 ARI tidal surge height for Port Albert.
  - C3. Conduct a review of the FO and LSIO covering Port Albert once data is available from the further work suggested above.
  - C4. Consider further engagement with the community to discuss issues relating to coastal climate change and the infrastructure protection and adaptation decisions that may be required in the future.
  - C5. Regularly review the best available flood mapping data and further update the flood overlays across the Wellington Shire as required.
  - C6. Consider the establishment of a Community Consultative Committee to represent the Port Albert community (and potentially other communities) in planning, environmental and social matters relating to flooding and climate change issues.

## Appendix A – Flood Maps as exhibited



Contains Mapping Information © The State of Victoria, Department of Sustainability and Environment, 2008. This material may be of assistance to you but Wellington Shire Council & the State of Victoria and its employees do not guarantee that the publication is without flaw or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or consequences which may arise from your relying on any information contained in this material (or publication) of Sustainability and Environment, 2008. This material may be of assistance to you but Wellington Shire Council & the State of Victoria and its employees do not guarantee that the publication is without flaw or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or consequences which may arise from your relying on any information contained in this material (or publication).

## Appendix B – List of Submitters

The following submissions were made as a result of the exhibition process:

No	First Name	Surname	Company	Status Object/Support
1	Matteo	Gallo		Objection
2	Joe	Patti		Objection
3	Sam	Peluso		Support
4	Michael & Elaine	Shaw		Objection
5	Susan	Nicol		Objection
6	Nick	Anderson	NBA Group	Support
7	Nick	Anderson	NBA Group	Support
8	Garnet	Sedman		Seek Changes
9	Paul	Fisher		Objection
10	Chris	Bollen		Seek Changes
11	GW & MK	Proud		Seek Changes
12	D & JA	Hogan		Objection
13	Don & Valda	Napier		Objection
14	John	Dunstan		Objection
15	Len & Jan	Suckling	Port Albert Service Station/Post Office	Objection
16	John	Heard		Objection
17	Donna	Eades	Port Albert Progress Association	Objection
18	Dennis & Mary	Wright		Objection
19	Derick	Robson		Objection
20	Greg	Hatt	Gippsland Ports	Seek Changes
21	Steven	Neocleous		Objection
22	William	Tieppo	Vic Roads	Seek Changes
23	Sabina	Brown		Objection
24	Rodney	Brown		Objection
25	Tom	Wolfe		Objection
26	Michael	Mitsis		Objection
27	Spencer	Sandilands		
28	Peter	Nitzsche		Objection
29	Jennifer	Nickell		Objection
30	Janice	Pell	South Gippsland Water	Support
31	Pam	Doran		Objection
32	Maree	West		Objection
33	Maree	West		Objection
34	Dianne	Carlisle		Objection
35	Peter	Beaton		Objection
36	Mervyn	Lowe		Objection
37	Anna	Nitzsche		Objection
38	John	Dunstan		Objection
39	Barbara	Clink		Objection
40	Eugene & Beverley	Garland		Objection
41	Jeremy	Venables		Objection
42	Neil	Fletcher		Objection
43	John	Scharp		Objection

No	First Name	Surname	Company	Status Object/Support
44	Angus	Savage		Objection
45	Graeme	Hubbard		Objection
46	Terry	Batson		Objection
47	Robert & Gayle	Kee		Objection
48	Frank	Savage		Objection
49	Jane	Savage		Objection
50	Neil Baird & Christine	O'Hagan		Objection
51	Hendrikus & Johanna	Zillig		Objection
52	Gary	Avery		Objection
53	Peter	Gault		Objection
54	WP	Whykes		Objection
55	Stuart	Boam		Objection
56	R & G	Atkinson		Objection
57	George	Robertson		Objection
58	Kay	Robertson		Objection
59	Susan	Scott		Objection
60	WG	Palmer		Objection
61	Donna	Eades	Port Albert Progress Association	Objection - amendment to original
62	Richard	Telling		Seek changes
63	Paul & Gayle	Maher		Objection
64	Mr PF	Coates		Objection
65	Frances	Coates		Objection
66	Dick	Whittaker	Gowrie House	Objection
67	Robert	Buick		Objection
68	Gavin	Neocleous		Objection
69	Joseph	Sagona		Objection
70	Stephen	Balhorn		Objection
71	Donald	Black		Objection
72	Matthew	Goulden		Objection
73	Rhonda	Stephens		Objection
74	Jo-Anne	Hugo		Objection
75	Mark	Goulden		Objection
76	Allan & Carol	Hobson		Objection
77	Warren	Curry		Objection
78	Margaret	Goulden		Objection
79	Terri	Gibson		Objection
80	Mr GJ	Manifold		Objection
81	Colin	Gibson		Objection
82	Makira	Gibson		Objection
83	Liam	Gibson		Objection
84	Vida	Sobott		Objection
85	Helga	Van gaal		Objection
86	Mavis	Clarke		Objection
87	Patricia	Latch		Objection
88	Rob	Howell		Objection
89	Mr K	Dighton		Objection
	Mr K	Dighton		
90	Eva	Palmer		Objection
91	Valda	Napier		Objection
92	Rhonda	Cahill		Objection
93	Ray	Cahill		Objection
94	Ingrid	Black		Objection
95	Joanne Raylene & Amanda	O'Loughlan		Objection
96	Christa	Whittaker		Objection

No	First Name	Surname	Company	Status Object/Support
97	Richard	Whittaker		Objection
98	Mr E	Thorpe		Objection
99	Ron	Evans		Objection
100	Vivian	Waller		Objection
101	Geoffrey	Salter		Objection
102	John	Agostino		Seek changes
103	Helen	Jones	Port Albert Bed and Breakfast	Seek changes
104	Mr GE	Quinn		Seek changes
105	Allan & Eileen	Hancock		Objection
106	Nazzareno	Nicolaci		General query
107	Michael	Glebov		Objection
108	Margaret	Hanna		Objection
109	Norman	Hanna		Objection
110	Maxwell & Dianne	Laub		Objection
111	Gordon & Marg	Lawrie		Objection
112	John & Olga	Zammit		General query
113	Stephen	Beardshaw		Objection
114	Shane & Donna-Maree	Eades		Objection
115	Chris	Smith		Objection
116	John	Jackson	Beveridge Williams	Objection
117	John	Agostino		Objection - 2nd submission
118	Garry	Kay	EPA Victoria	Seek changes
119	Jenny & Darel	Smith		Objection
120	Dana	Irving-Zangas		Objection
121	Chris	Cumow	Beveridge Williams	Objection
122	John	Mactier		Objection
122	Barbara	McDonnell		Objection
122	Heather	Zirknitzer		Objection
123	John	Brennan	Department of Sustainability & Environment	Support
124	Don	Napier		Objection
125	Diana	Botelho		Support but concerned with process
126	Lesley	Van dijk		Objection
127	Mary	Rizza		Objection
128	Vincent	Rizza		Objection
129	Phil & Kerrie	Logan		Objection
130	Emmet	Green		Objection
131	John	Jackson		Support
132	John	Jackson		Support
133	John	Jackson		Seek changes
134	Sir/Madam	Stackhouse		Objection
135	Terry	Batson		Further information to original submission
136	SJ & RW	Armishaw		Objection
137	Mary	Rizza		Supplementary Submission
138	Vincent	Rizza		Supplementary Submission
139	Lorraine	Robinson		

The Following submissions were received at or after the Hearing:

Doc No.	Submission No.	Submitter	Description
1		Council and WGCMA	Submission
2		Council and WGCMA	Attachment 1 to Submission
3		Council and WGCMA	Attachment 2 to Submission
4		Council and WGCMA	Letter from Minister for Water – Planning For Impacts of Climate Change on Flooding in Coastal Areas
5		Council and WGCMA	Legend for Attachment 2 to Submission
6	127, 137	Mr and Mrs Rizza	Using Victoria's Planning System
7	127, 137	Mr and Mrs Rizza	Product Submission Vicmap Elevation
8	127, 137	Mr and Mrs Rizza	Gippsland Lakes Environmental Study – Fact Sheet 5 (Gippsland Coastal Board)
9	127, 137	Mr and Mrs Rizza	Information Sheet on Ramsar Wetlands
10	127, 137	Mr and Mrs Rizza	Gippsland Lakes Flood Level Modelling Project
11	127, 137	Mr and Mrs Rizza	Victorian Government Gazette No G 41 (13 October 005)
12	127, 137	Mr and Mrs Rizza	Victorian Government Gazette Attachment – maps, diagrams (Cardina Lawson Treloar Pty Ltd)
13	127, 137	Mr and Mrs Rizza	Environment and Natural Resources Committee Inquiry Into Impact of Public Land Management Practices in Bushfires in Victoria (June 2008)
14	127, 137	Mr and Mrs Rizza	Combined Impact of the 2003, 2006/07 Bushfires on Streamflow
15	127, 137	Mr and Mrs Rizza	Companion Document to the Gippsland Natural Resources Report Card 2008
16	127, 137	Mr and Mrs Rizza	Southern Rural Water – Lake Glenmaggie
17	127, 137	Mr and Mrs Rizza	Google Map – Western End of Lake Reeve
18	17, 81	Port Albert Progress Association	Submission
19	107	Mr Michael Glebov	Submission
20	12	Ms Dianne Hogan	Submission
21	46, 135	Mr Terry Batson	Submission
22	59, 130	Ms Susan Scott – on behalf of herself and Mr E Green	Submission
23	125	Ms Diana Botelho	Submission
24	52	Mr Gary Avery	Submission
25		Council and WGCMA	Further information and responses to questions
26	127, 137	Mr and Mrs Rizza	Further information
27	52	Mr Avery	Further information

## **Appendix C – Technical Basis of Amendment (Including Accuracy of Data Sources)**

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*Extract from Council and WGCMA submission to the Panel Hearing:*

### **2.2 Technical Basis for Amendment C33 (Including Accuracy of Data Sources)**

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This section lists the various data sources (together with an assessment of their accuracy) that provided the basis for changes introduced by Amendment C33.

#### **2.2.1 Aerial flood photography and video from the 2007 floods**

The June/July 2007 floods affected the Macalister and Thomson Rivers, and communities fringing the Gippsland Lakes, including Loch Sport and Hollands Landing.

From Lake Glenmaggie to Maffra, the 2007 flood was estimated to be a 100 year ARI event. The flood on the Thomson system upstream of its confluence with the Macalister was estimated to be a 25 year ARI event. Downstream of the Macalister/Thomson confluence, the flood was about a 28 year ARI event. Across the Gippsland Lakes, the 2007 floods corresponded to a 20 year ARI event. Most of these flood frequency estimates were provided by Thiess Services, who are the chief providers of water monitoring information across Gippsland. Professor Rodger Grayson from the Department of Civil and Environmental Engineering at the University of Melbourne provided the Gippsland Lakes estimate.

There were no error bounds provided with the estimates; however, professional judgement based on past experience suggests an error range of about 10% (eg a 100 year event might be  $\pm 10$  years; a 50 year ARI event might be  $\pm 5$  years). Regardless of the error bounds, the flood frequency estimates represent the best information on this matter available to the WGCMA and the Shire.

The WGCMA commissioned extensive scaled aerial vertical photography of the floodwaters. In terms of accuracy, the photography is close to a 100% accurate depiction of what was occurring at the time it was taken. What needs to be kept in mind is that the photography represents a single point in time – the flood peak may have passed through that particular location some time ago or not yet reached it. What the photography does tell us is that floodwaters were at least as extensive as that shown in the photography.

Often, if the flood peak is known to have passed a certain point, the flood photography picks up the 'debris line', where the flood peak may have left a tell-tale line of fine debris at its highest point. If this were relied upon to delineate the flood extent, it may underestimate the extent of flooding (floating debris can't be left above the high water line, only below it).

Overall, flood photography gives an excellent representation of the minimum extent of flooding for a particular event. Whilst unfortunate for the floodplain landowners, the 2007 floods provided some excellent information that corresponded very closely to a 100 year ARI flood event and therefore a prospective LSIO. On the hierarchy of information available to floodplain managers, scaled vertical aerial photography of a 100 year ARI event would be at or near the top of the list.

The photography was complemented by some oblique aerial video footage that helped the WGCMA to cover some of the gaps in photographic cover, both in a temporal and spatial sense.

The photography and video was only used to delineate the LSIO for the Macalister River floodplain from Lake Glenmaggie to Maffra in the east and to the Thomson River in the south.

### **2.2.2 Flood Data Transfer Project (DNRE 2000)**

The Flood Data Transfer Project (FDTP) was undertaken by the then Department of Natural Resources (now known as the Department of Sustainability and Environment) in the late 1990s, with final outputs becoming available in 2000. The FDTP compiled all flood information then available into the one dataset; in particular, producing two key outputs: a set of detailed Flood Planning maps delineating FO and LSIO areas and a set of Flood Data maps.

The FDTP information came from a variety of sources, including historical observed data, flood study outputs and interpretation of aerial (non-flood) photography and topographic data. Depending on their source, the various datasets were assigned a High, Medium or Low reliability rating.

The FDTP mapping was used at the commencement of the Amendment C33 process to refine flood mapping along the Thomson, Latrobe and Avon Rivers and around the Gippsland Lakes and to provide new flood mapping for the Albert and Tarra Rivers, Merrimans Creek, Port Albert, Tarraville and Alberton areas. The assigned reliability for each of these locations was:

Thomson River (except Sale)	Low
Sale	High
Latrobe River (except Rosedale)	Medium
Rosedale	High
Avon River	Low
Gippsland Lakes	Low
Albert and Tarra Rivers	Low
Merriman Creek	Low
Port Albert, Tarraville & Alberton	Low

The intention at the time the FDTP maps were produced was that municipalities would incorporate the LSIO and FO delineations into their planning schemes as soon as practicable. The final FDTP Flood Mapping Report for Wellington Shire specifically stated that the Flood Data maps should not be used for planning purposes (without further investigation and confirmation); however, it also stated that:

- The Floodway and 1% AEP Flood Extent mapping has only been carried out for locations where information was available and of sufficient quality to justify delineation; and
- Both the 1% AEP Flood Extent and Floodway mapping are critical input to the floodplain management and land use control processes being developed by the CMAs and Local Government.

Whilst the reliability rating assigned by the FDTP to much of the data is 'Low', the data was considered of 'sufficient quality to justify delineation' and was the best flooding information available at the time that the C33 mapping was prepared. Most of the areas listed above are known to experience inundation so it was considered that 'low reliability' mapping was better than no mapping at all. Since the time that the mapping for Amendment C33 was prepared, new information in the form of detailed LiDAR data has become available and, in most cases, this has generally confirmed the FDTP mapping of FO and LSIO extents.

The WGCMA will always use the best flooding information available to it and, for most areas, particularly before the availability of LiDAR data, the FDTP contained the best flooding information available.

It is noted too that the designation of 'low reliability' to a certain set of data can work both ways – whilst some may argue that flooding is overestimated, it might also be that the actual extent of 100 year ARI flooding is significantly underestimated.

### ***2.2.3 Gippsland Lakes Flood Level Modelling Project (CEAH, 2004)***

This was a major project undertaken for the CMAs by the Centre of Environmental Applied Hydrology (CEAH) in the early 2000s, reporting in June 2004. The project estimates flood levels, particularly for the 20, 50 and 100 year ARI events, for a number of locations across the Gippsland Lakes. The project was especially complex as there are a number of factors acting to influence high lake levels – river inflows from 5 major river systems, ocean levels, atmospheric pressure, wind and tide.

Among other things, the project made particular recommendations for the 100 year ARI flood levels to be used at Loch Sport (1.9m AHD for both sides of town) and in Lake Wellington (2.2m AHD). The derived level for Hollands Landing is 2.1m AHD. These levels were formally declared by the CMAs under the *Water Act 1989* in 2006.

The project did not specifically give an error range for its estimates of flood levels; however, it was noted during model calibration that 90% of the highest 100 levels between 1976 and 2000 were within 10 cm.

The project was peer-reviewed on two occasions by a panel of Australia's leading experts in statistical hydrology and hydrodynamics, who concluded that '*... the estimates of flood levels for the Gippsland Lakes with annual exceedence probabilities of 1 in 20, 1 in 50 and 1 in 100 years provide a sound and defensible basis for planning.*

In 2006, following some misinterpretation of the outputs by landowners at Loch Sport, the head of the CEAH team that undertook the project, Professor Rodger Grayson, issued a clarification, in relation to flood levels at Loch Sport, stating:

*"The 1.9m level should be adopted for both sides of the town of Loch Sport [i.e. the Lake Victoria and Lake Reeve side]. It is possible that other influences that were not modelled such as overflow from Merrimans Creek could increase the 1% level further, however these are not expected to have a major influence and so the 1.9 m level should be adopted."*

Some thought was given to issuing this clarification as an addendum to the report; however, by that time, a large number of uncontrolled copies of the report had been released and this was not possible.

#### **2.2.4 The Port of Sale Hydrological Study (SMEC, 2004)**

This project was undertaken by SMEC for the Wellington Shire, with input from the WGCMA. As part of the project, a detailed hydraulic model was constructed, primarily to test the impact of a number of development scenarios around the Port of Sale area.

The project also produced some 'current condition' flood mapping that identified areas that would be inundated by over 1.0 metres depth in a 100 year ARI event. Such areas have been designated FO, with the remainder of the flood prone land being designated LSIO. Given the nature of the data, this is the best delineation that could be made.

Given that DSE's Guidelines for Delineating Floodways would allow areas that flood to a depth of 0.5m or more to be delineated FO, this is in essence a 'low control' approach.

The flood mapping from this project was only used to update mapping in the Sale area, from the railway bridge to the South Gippsland Highway.

Flood study and computational model outputs are considered to be reliable. The inherent errors in this project were not stated but it is likely that flood levels are estimated to within about  $\pm 0.15\text{m}$ .

#### **2.2.5 Rosedale Flood Warning System Project**

This project was undertaken by GHD for the Wellington Shire, with input from the WGCMA. As part of the project, a detailed hydraulic model was

constructed, primarily to establish whether a flood warning system was appropriate for the town.

Detailed flood maps were prepared for a range of events and, among other things, it was recommended that: "*Wellington Shire Council seek to have the amended planning controls incorporated into its planning scheme as soon as practicable.*"

In general, the study determined that the impacts of flooding at Rosedale were less significant than previously thought. The mapping from this project has only been used to update planning controls in the Rosedale area.

Flood study and computational model outputs are considered to be reliable. The inherent errors in this project were not stated but it is likely that flood levels are estimated to within about  $\pm 0.15\text{m}$ .

### **2.2.6 LiDAR data (DSE, Dec 2009)**

The Department of Sustainability and Environment (DSE) has led a number of recent projects to capture detailed topographic data along the Victorian Coast and within the Macalister Irrigation District. The data was captured using Light Detection And Ranging (LiDAR) technology in 2008 but processing and quality assurance activities meant it wasn't released for use until December 2009, well after the preparation of mapping for Amendment C33.

The WGCMA was able to obtain advance copies of preliminary LiDAR data for McLoughlins Beach in mid 2008 and this was used, together with flood photography from 1993, as the basis for flood mapping in that town. However, final LiDAR datasets were not received for all other areas until late 2009. As a consequence, the LiDAR data could only be used post-exhibition to confirm and refine mapping in those areas where it is available. As discussed elsewhere, the refinements to mapping only involved reductions in extent (even when increases in extent were indicated), except in isolated cases where affected land owners agreed with the increase.

Areas where LiDAR has been used, post-exhibition, to refine mapping include:

- Port Albert and surrounds;
- Tarraville;
- Alberton;
- Muddy Creek;
- Airly;
- Rosedale;
- Sale; and
- Wurruk.

The general specifications for the LiDAR data are that it has a vertical accuracy of  $\pm 10\text{ cm}$  and a horizontal accuracy of  $\pm 35\text{ cm}$ . Further investigation with DSE indicates that the quality assurance requirements for the data are that at least 68% of points are within these particular error ranges. This level of accuracy is considered adequate for planning purposes

and is certainly better than other widely available topographic data. The WGCMA considers that actual ground survey undertaken by qualified surveyors would have a higher level of accuracy but, in the absence of extensive ground survey, the LiDAR data is the best topographic information available. The WGCMA undertook some limited ground survey in Port Albert in August 2010, which generally confirmed the accuracy of the LiDAR – the average difference between ground survey and LiDAR was 0.087m.

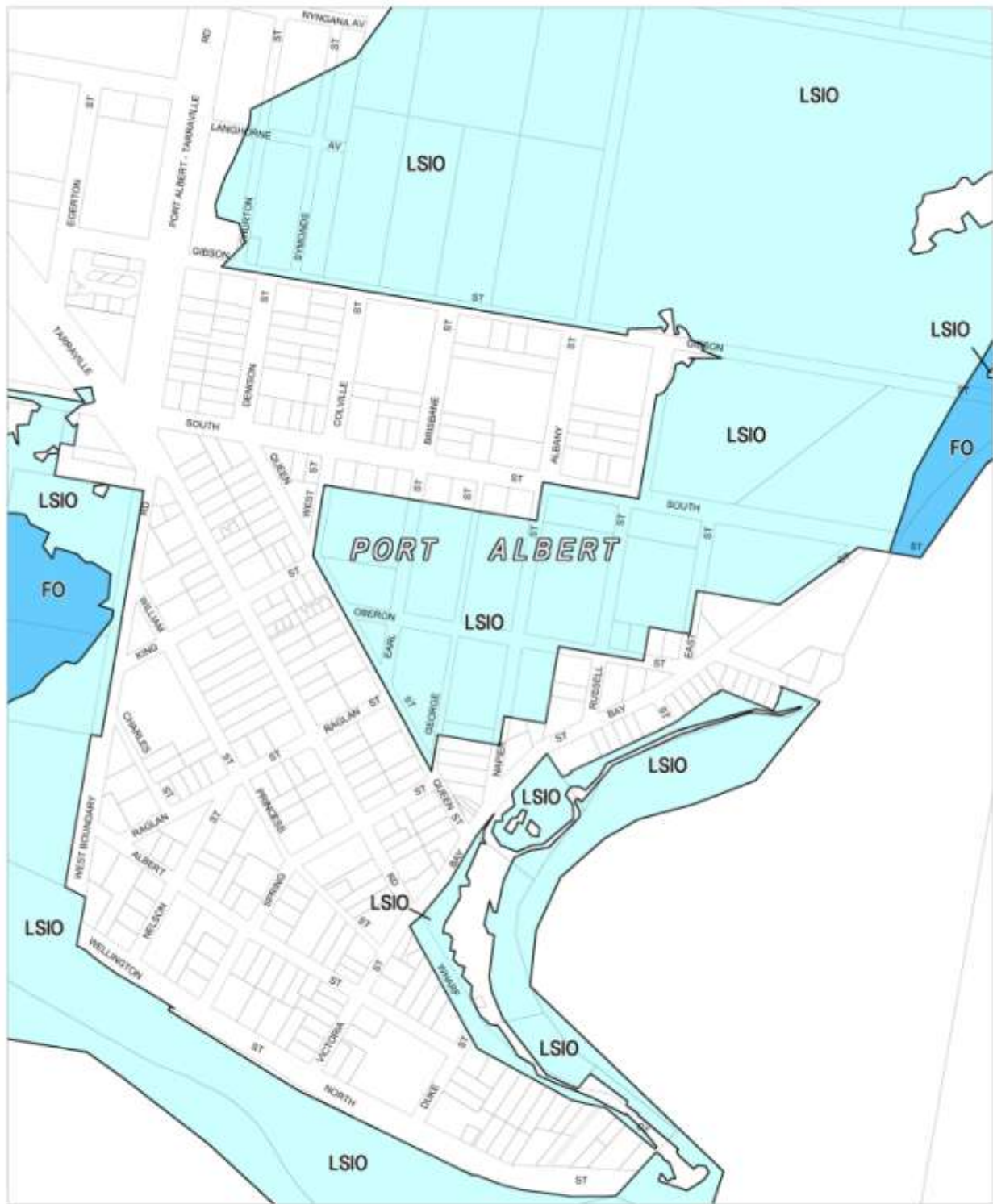
### **2.2.7 Climate Change in Eastern Victoria – Stage 3 Report (CSIRO 2006)**

The sub-title of this report is '*The effect of climate change on extreme sea levels in Corner Inlet and the Gippsland Lakes*'. Whilst this report mainly looked at future sea levels as a result of climate change, it also established the base 100 year ARI sea level for a number of areas including Port Albert.

The 100 year ARI inundation level given for Port Albert *under current conditions* is 1.75m AHD. This compares with previous estimates of 1.8m AHD from the Drainage of Township Port Albert – Palmerston Final Report (Camp Scott & Furphy 1983) and 1.73m AHD from Port Albert Drainage and Tidal Protection Study (SMEC 2006). The CSIRO estimate of 1.75m AHD is considered the most reliable recent estimate and has therefore been adopted by the WGCMA as the 100 year ARI inundation level under current climatic conditions.

The report does not specifically state the likely error bands associated with the level estimates, but the WGCMA's reading of the report indicates that it would be within  $\pm 0.1\text{m}$ . Regardless of the accuracy of the estimate, the WGCMA considers that the CSIRO's 2006 estimate of 1.75m AHD is the best and most reliable estimate available. It also compares well with previous estimates.

# WELLINGTON PLANNING SCHEME - LOCAL PROVISION



Map metadata and navigation elements:

- Scale bar: 0 to 400 meters.
- Logos: Victoria and Council of the City of Wellington.
- Text: AMENDMENT C33, MAP No 209LSIO-FO.
- Legend: LAND SUBJECT TO INUNDATION & FLOODWAY OVERLAY.
- Small inset map of New Zealand showing the location of Wellington.

**ITEM C3.2****ASSESSMENT OF DEVELOPMENT IN RELATION TO POTENTIAL SEA LEVEL RISE POLICY**

DIVISION: DEVELOPMENT

ACTION OFFICER: GENERAL MANAGER DEVELOPMENT

DATE: 17 DECEMBER 2013

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
✓		✓				✓		✓	✓

**OBJECTIVE**

To adopt the 'Assessment of development in relation to potential sea level rise policy' included in Attachment 1.

**BACKGROUND**

The State Planning Policy Framework (SPPF) requires Council 'to plan for and manage the potential coastal impacts of climate change'. Since late 2008, Council has been planning for potential sea level rise impacts of at least 0.8 metres to 2100 above current 1 in 100 year flood levels. The SPPF requirement to plan for at least 0.8 metre sea level rise at the turn of the century has resulted in significant challenges for Council and the community due to often shorter term development lifespans and the level of uncertainty about the extent of potential sea level rise over time.

Given such difficulties, the Coastal Climate Change Advisory Committee Final Report, December 2010 identified that:

*'... as we move into a phase of intensive strategic and adaptation planning, the Committee believes it is necessary to consider interim steps in time and sea level rise. This provides more focus for decision makers in the short and medium time and will help to achieve the balance sought in managing risk whilst allowing some acceptable level of development.'*

Further, the Coastal Climate Change Advisory Committee stated that:

*'Given the uncertainty around the rate of sea level rise, this approach of a reasonable and reasonably conservative sea level rise over time given our current state of knowledge appears eminently sensible.'*

In response to the Coastal Climate Change Advisory Committee Report, the Minister for Planning approved Amendment VC94 on 4 July 2012. Amendment VC94 amended all Planning Schemes in Victoria to introduce new strategies in Clause 13.01 (Climate Change Impacts) of the SPPF. The principal changes from the former requirement to plan for at least 0.8 metre sea level rise in all areas (emphasis added) are as follows:

*New strategies:*

*'In planning for possible sea level rise, an increase of 0.2 metres over current 1 in 100 year flood levels by 2040 may be used for new development in close proximity to existing development (urban infill).'*

'For new greenfield development outside of town boundaries, plan for not less than 0.8 metre sea level rise by 2100.'

A full copy of Clause 13.01 of the SPPF is included in Attachment 2. Within existing urban areas affected by potential sea level rise, there is now the ability for Council to elect to plan for an increase of 0.2 metre sea level rise to 2040 over current 1 in 100 year flood levels. For greenfield areas, the strategy of applying 0.8 metre sea level rise to 2100 remains in effect, although some exceptions (refer to Table 1 below) apply. As stated in the Minister for Planning's 5 June 2013 media release 'the benchmark of 0.2 metre sea level rise is directly endorsed by the Coastal Climate Change Advisory Committee Report and will provide certainty for development to continue in coastal settlements.'

This newly created ability to use the 0.2 metre benchmark is also embodied in 'Guidelines for Coastal Catchment Management Authorities: Assessing development in relation to sea level rise, June 2012' (the 'Guidelines'), which have been endorsed by the Minister for Water. These Guidelines (refer to Attachment 3) set out relevant criteria and considerations to be taken into account by the West Gippsland Catchment Management Authority (WGCMA) in assessing development proposals that may be affected by potential sea level rise.

The draft Victorian Coastal Strategy 2013, which is currently open for public and stakeholder comment, reinforces current State policy direction of planning for not less than 0.8 metre sea level rise in greenfield areas, but retains reference to the ability to plan for not less than 0.2 metre sea level rise to 2040 (above current 1 in 100 year flood levels) in urban infill areas.

The WGCMA has written to Council and advised that the Guidelines allow for the WGCMA and Council to adopt different levels when:

*'In some areas, where adaptation planning has already occurred or is occurring, and there is a strong case for locally approved solutions, CMAs and local councils may agree to continue to apply local criteria for assessing local development.'*

In relation to the issue of adaptation planning, the draft Victorian Coastal Strategy 2013 recognises that:

*'to assist with longer-term adaptation at a local and regional level, the Victorian Government is working with local councils to produce local coastal hazard assessments. Four pilot projects are underway in, Port Fairy, Corio Bay/Bellarine Peninsula, Western Port Bay and the Gippsland Lakes/Ninety Mile Beach. Once these projects are complete the outcomes can guide application of this approach in other locations.'*

Council is, therefore, actively involved in State Government lead initiatives to better understand potential impacts of coastal climate change, which can provide a further basis to inform appropriate longer term and 'staged' responses to potential sea level rise impacts. It needs to be recognised, therefore, that the policy included in Attachment 1 will be reviewed and can evolve over time as further information becomes available.

As requested by the WGCMA, it is now necessary for Council to formalise a policy position in relation to either adopting the 0.2 metre benchmark (to 2040) in urban infill areas or continue utilising the 0.8 metre benchmark (to 2100) in urban infill areas.

In relation to greenfield areas, it is noted that the SPPF specifically identifies the need to plan for not less than 0.8 metre sea level rise by 2100. However, the Guidelines (which have been approved by the Minister for Water), include the following guidance in relation to establishing benchmark flood levels (refer to Table 1 below).

**Table 1: Benchmark flood levels identified in the Guidelines**

<b>Development</b>	<b>Minimum benchmark flood level</b>
Development accommodating emergency and community facilities (as per Clause 13.02 of the Victoria Planning Provisions)	1% AEP flood level, taking into account a rise in mean sea level rise of at least 0.8 metres, and the impacts of storm tides.
Greenfield development (as defined in the glossary)	
All other development in existing urban areas	Current 1% AEP flood level.
New and replacement dwellings and other individual buildings outside existing urban areas.	

Under the Guidelines it is possible, therefore, that single dwellings in greenfield areas can also be assessed at the current 1 in 100 year flood level, with an extra floor level rise allowance of 0.2 metre potential sea level rise being applied to any approved development. In the interests of providing for a consistent approach with single dwelling development across infill and greenfield areas, it is recommended that a uniform floor level increase of 0.2 metre potential sea level rise be utilised. It is noted, however, that Council has the option of continuing to plan for potential sea level rise of at least 0.8 metres for single dwellings in greenfield areas which could be justified on the following basis:

- Built form implications of raised floor levels are less significant on 'stand alone' rural lots compared to established township areas such as Port Albert where raised floor levels have more pronounced 'neighbourhood/heritage character' impacts.
- 'Stand alone' rural lot development is less likely to have a future adaptation response applied compared to urban infill areas.
- The underlying rural zoning of land and the associated expectation of dwelling use is substantially different to urban infill areas and hence increased floor level requirements is not unreasonable.

It is important for Council to note that if Council opted to continue to plan for 0.8 metre potential sea level rise for single dwellings in greenfield areas (i.e. plan for 2100 levels), the WGCMA will also assess safe vehicle egress against these levels. In contrast, if Council were to elect to plan for 0.2 metre sea level rise in greenfield areas for single dwellings (as required by the policy included in Attachment 1), safe vehicle access would be assessed only against the current 1 in 100 year flood level.

Following several past Council workshops, a policy position has been prepared (refer to Attachment 1) which is recommended for Council adoption. In summary, in current flood overlay or proposed flood overlay areas along the coast, the policy proposes to apply the 0.2 metre benchmark to infill development (with limited exceptions), while single dwellings in greenfield areas (if approved) will also be able to plan for an additional 0.2 metre potential sea level rise benchmark.

## **OPTIONS**

Council has the following options:

1. Adopt the 'Assessment of development in relation to potential sea level rise policy' included in Attachment 1; or

2. Does not adopt the 'Assessment of development in relation to potential sea level rise policy' and instead elects to continue to plan for 2100 flood levels (incorporating at least 0.8 metres potential sea level rise) in all affected areas across the municipality; or
3. Seeks further information and/or changes prior to adopting the 'Assessment of development in relation to potential sea level rise policy'; or
4. Not adopt a policy position in relation to sea level rise planning policy and instead requests that the West Gippsland Catchment Management Authority define appropriate benchmarks through the planning permit referral process.

## **PROPOSAL**

That Council adopt the 'Assessment of development in relation to potential sea level rise policy' included in Attachment 1.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **LEGISLATIVE IMPACT**

It is a legislative requirement to plan for the potential impacts of coastal climate change. The proposal contained in this report is considered appropriate within the context of the Wellington Planning Scheme, the *Planning and Environment Act 1987* and the *Water Act 1989*.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013–2017 Theme 5 Land Use Planning states the following strategic objective and related strategy:

### Strategic Objective

*"Appropriate and forward looking land use planning that incorporates sustainable growth and development."*

### Strategy 5.1

*"Ensure Land Use Policies and Plans utilise an integrated approach to guide appropriate land use and development."*

## **PLANNING POLICY IMPACT**

The WGCMA has advised Council that it will support Council's policy as outlined in Attachment 1. The WGCMA will apply the preferred planning policy position as part of its assessment of future planning permit applications and subsequent referral advice to Council.

## **COMMUNITY IMPACT**

If Council elects to continue to plan for the 0.8 metre sea level rise benchmark in urban infill areas and for single dwellings in greenfield areas, it will simply result in continuation of current practice. However, it is expected that the community will generally react more positively to the proposed adoption of a 0.2 metre sea level rise benchmark.

If Council elects to plan for 0.2 metre sea level rise, this will create disparity between earlier planning decisions which may have been acted on using a 0.8 metre sea level rise allowance. However, it is incumbent on Council to consider an appropriate policy position given that recent amendments to the SPPF now provide Council with discretion which previously did not exist.

As discussed at earlier Council workshops, the WGCMA will support single dwelling development on urban zoned land in township areas, regardless of whether Council elects to plan for a 0.2 metre or 0.8 metre sea level rise benchmark. However, when assessing rural development and more intensive forms of urban development such as multi unit development, subdivision and commercial accommodation, the WGCMA need to be satisfied that other criteria are met (e.g. safe flooding depth on egress routes). If Council elects to continue to plan for 0.8 metre sea level rise in urban infill areas, it can be expected that under 2100 conditions (0.8 metre sea level rise) a lower percentage of proposals for 'intensification' will be supported by the WGCMA when compared to the 0.2 metre sea level rise benchmark. However, under either potential sea level rise scenario, it is noted that there will be many examples where intensification will not be supported by the WGCMA so as to not 'compound' identified flood risk. In such cases, the community will retain an avenue of appeal at the Victorian Civil and Administrative Tribunal should a refusal to grant a planning permit be issued.

## **CONSULTATION IMPACT**

The WGCMA has been consulted about the proposed policy included in Attachment 1. The WGCMA will support Council's preferred policy position. Consistent with the view expressed at recent Council workshops, the WGCMA has advised Council that 'the Authority remains of the view that floodplain management decisions including those for infill development should include an allowance for sea level rise to the year 2100 of at least 0.8 metres where this is also supported by local government.' Further, the WGCMA has advised that 'the WGCMA Board is also of the view that decision making should be based on the best available science'.

## **RISK MANAGEMENT IMPACT**

In applying the precautionary approach and potentially reducing future legal exposure, Council could continue to plan for 0.8 metre sea level rise (2100 levels). However, given that discretion to apply a lower benchmark level has been explicitly provided for by the State Government, it is important that the policy decision be considered in a broader context. State planning policy clearly recognises that given current uncertainties, a 'stepped' response to potential sea level rise over time is appropriate. It is also important to note that if Council elects to plan for the reduced 0.2 metre sea level rise benchmark in urban infill areas (akin with the benchmark sea level rise allowances applied along the majority of the Victorian coast), it is proactively responding to potential risk by providing an extra 0.2 metre 'buffer' on top of the 1 in 100 year flood level and an existing 'freeboard' or 'safety margin' allowance required under the Building Regulations. Any future infill development approved under the proposed policy is, therefore, being better 'flood proofed' than much existing development. In relation to existing development, it is acknowledged that future adaptation planning will need to be undertaken in conjunction with other levels of government and relevant stakeholders.

There are potential risk management implications for Council should it elect to apply the reduced 0.2 metre sea level rise benchmark, but any policy decision requires a balanced assessment of a range of complex social, economic and environmental issues in favour of net community benefit. For example, in the VCAT case of *Rowe v Greater Geelong City Council* (2011 VCAT 1772), despite Council and CMA objection to a two dwelling development and two lot subdivision in Point Lonsdale, VCAT recognised that adaptation measures are likely to be established in the township (including for extensive areas of existing housing stock) to reduce the extent of inundation by 2100 and hence determined that a permit should issue.

VCAT also recognised that non-physical measures, such as highly sophisticated forecasting and early warning systems could be established to help manage identified flood hazard on the egress routes. While other VCAT decisions have emphasised the importance of the precautionary approach, a 'stepped' approach to managing potential coastal climate change impacts is appropriate provided that Council regularly reviews its policy position as updated information and knowledge becomes available.

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### RECOMMENDATION

***That Council adopt the 'Assessment of development in relation to sea level rise planning policy' included in Attachment 1.***

### PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

1. Spencer Sandilands, Port Albert resident  
Hopes that Council adopts the reduced height of .2 metre sea level rise.
2. Michael Gleeboff, Port Albert resident  
Urge Council to adopt the incremental levels as buildings rarely last 10 years.
3. John McLinden, Longford resident  
Spoke generally about local floods and requested that Council adopt the .2 metre sea level rise.
4. Gary Proud, Port Albert  
Spoke that the time taken for Council to deal with this has been detrimental to Port Albert and the Shire.

### COUNCILLOR McIVOR/COUNCILLOR WENGER

***That Council adopt the 'Assessment of development in relation to sea level rise planning policy' included in Attachment 1.***

**CARRIED**

## ATTACHMENT 1

ASSESSMENT OF DEVELOPMENT IN RELATION TO POTENTIAL SEA  
LEVEL RISE POLICY

<b>Policy Number:</b>	3.1.2
<b>Approved by:</b>	Council
<b>Date Approved:</b>	17 December 2013
<b>Date Effective:</b>	Immediately
<b>Date of Next Review:</b>	Yearly
<b>Related Policies:</b>	Nil
<b>Applicable to Unit(s):</b>	Land Use Planning
<b>Responsible Officer:</b>	Manager Land Use Planning
<b>Statutory Reference:</b>	<i>Planning and Environment Act 1987 and Wellington Planning Scheme</i>

## OVERVIEW

The purpose of this policy is to establish appropriate sea level rise allowances to be applied in future planning permit decision making.

This policy responds to the State Planning Policy Framework in the Wellington Planning Scheme, which identifies 'the need to plan for and manage potential coastal impacts of climate change'. More specifically, strategies in Clause 13.01-1 of the State Planning Policy Framework include:

- *In planning for possible sea level rise, an increase of 0.2 metres over current 1 in 100 year flood levels by 2040 may be used for new development in close proximity to existing development (urban infill).*
- *For new greenfield development outside of town boundaries, plan for not less than 0.8 metre sea level rise by 2100.*

Based on this policy, the West Gippsland Catchment Management Authority (as the relevant statutory flood authority) can provide consistent technical advice to Council on appropriate flood levels in areas affected by potential sea level rise.

## THE POLICY

## Application of policy

This policy applies to land affected by potential sea level rise\* when a planning permit is 'triggered' by:

- the Land Subject to Inundation Overlay or Rural Floodway Overlay; or
- another planning scheme provision and Council has resolved to include the land in the Land Subject to Inundation Overlay or Rural Floodway Overlay.

\* Based on the Victorian Coastal Inundation Dataset (refer to <http://www.climatechange.vic.gov.au/adapting-to-climate-change/future-coasts>)

This policy applies to 'urban infill areas' and 'greenfield development', which for the purpose of this policy are defined as:

Urban infill areas

*'land within defined settlement boundaries identified in Clause 21.04 of the Wellington Planning Scheme or where no defined settlement boundary exists, to all established township areas zoned for urban purposes'.*

Greenfield development

*'All land other than urban infill areas'.*

**Information and advice**

Council will seek technical advice from the West Gippsland Catchment Management Authority in applying this policy.

The West Gippsland Catchment Management Authority will assess development in relation to sea level rise in accordance with Guidelines for Coastal Management Authorities, June 2012 (or any subsequent version) and this Council policy.

While the West Gippsland Catchment Management Authority is a 'recommending' referral authority, Council will continue to rely on the best available technical knowledge and information provided by the West Gippsland Catchment Management Authority at the time of making any planning decision.

**Benchmark flood levels**

- *In all urban infill areas, the current 1 in 100 year benchmark flood level will be applied, with an extra potential sea level rise allowance of 0.2 metres being applied to finished floor levels.*

This does not apply:

- to development accommodating emergency and community facilities (as identified in Clause 13.02 of the State Planning Policy Framework) where an allowance of 0.8 metre sea level rise will be used if the West Gippsland Catchment Management Authority support the proposal\*\*.
- to minor development proposals such as non-habitable outbuildings, decking and the like where a reduced floor level is supported by the West Gippsland Catchment Management Authority.
- when a development proponent elects to establish a higher floor level.

- *In all greenfield areas, the 2100 benchmark flood level (incorporating at least 0.8 metre potential sea level rise) will be applied.*

This does not apply:

- to single dwellings where the urban infill benchmark flood level above will be utilised\*\*\*.
- to minor development proposals such as non-habitable outbuildings, decking and the like where a reduced floor level is supported by the West Gippsland Catchment Management Authority.

## HUMAN RIGHTS

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

### Modification History

*Date:* -

*Procedure:* -

*Strategy:* -

*Related policies:* Clause 13.01, 13.02 and 21.04 of the Wellington Planning Scheme, Guidelines for Coastal Management Authorities, Department of Sustainability and Environment, June 2012 (or any subsequent version) and Assessing Development in Relation to Sea Level Rise Council report, 19 November 2013.

*\*\*\* It is noted that single dwellings in greenfield areas may not be supported by Council or the WGCMA. Each application will be assessed on its merits.*

## ASSESSMENT OF DEVELOPMENT IN RELATION TO POTENTIAL SEA LEVEL RISE POLICY

<b>Policy Number:</b>	3.1.2
<b>Approved by:</b>	Council
<b>Date Approved:</b>	17 December 2013
<b>Date Effective:</b>	Immediately
<b>Date of Next Review:</b>	Yearly
<b>Related Policies:</b>	Nil
<b>Applicable to Unit(s):</b>	Land Use Planning
<b>Responsible Officer:</b>	Manager Land Use Planning
<b>Statutory Reference:</b>	<i>Planning and Environment Act 1987</i> and Wellington Planning Scheme

### OVERVIEW

The purpose of this policy is to establish appropriate sea level rise allowances to be applied in future planning permit decision making.

This policy responds to the State Planning Policy Framework in the Wellington Planning Scheme, which identifies 'the need to plan for and manage potential coastal impacts of climate change'. More specifically, strategies in Clause 13.01-1 of the State Planning Policy Framework include:

- *In planning for possible sea level rise, an increase of 0.2 metres over current 1 in 100 year flood levels by 2040 may be used for new development in close proximity to existing development (urban infill).*
- *For new greenfield development outside of town boundaries, plan for not less than 0.8 metre sea level rise by 2100.*

Based on this policy, the West Gippsland Catchment Management Authority (as the relevant statutory flood authority) can provide consistent technical advice to Council on appropriate flood levels in areas affected by potential sea level rise.

### THE POLICY

#### Application of policy

This policy applies to land affected by potential sea level rise\* when a planning permit is 'triggered' by:

- the Land Subject to Inundation Overlay or Rural Floodway Overlay; or
- another planning scheme provision and Council has resolved to include the land in the Land Subject to Inundation Overlay or Rural Floodway Overlay.

\* Based on the Victorian Coastal Inundation Dataset (refer to <http://www.climatechange.vic.gov.au/adapting-to-climate-change/future-coasts>)

This policy applies to 'urban infill areas' and 'greenfield development', which for the purpose of this policy are defined as:

#### Urban infill areas

'land within defined settlement boundaries identified in Clause 21.04 of the Wellington Planning Scheme or where no defined settlement boundary exists, to all established township areas zoned for urban purposes'.

#### Greenfield development

'All land other than urban infill areas'.

This policy does not apply to urban infill areas in Port Albert which have been excluded from flood overlay controls through the Minister for Planning's approval of Amendment C33 to the Wellington Planning Scheme.

#### **Information and advice**

Council will seek technical advice from the West Gippsland Catchment Management Authority in applying this policy.

The West Gippsland Catchment Management Authority will assess development in relation to sea level rise in accordance with Guidelines for Coastal Management Authorities, June 2012 (or any subsequent version) and this Council policy.

While the West Gippsland Catchment Management Authority is a 'recommending' referral authority, Council will continue to rely on the best available technical knowledge and information provided by the West Gippsland Catchment Management Authority at the time of making any planning decision.

#### **Benchmark flood levels**

- *In all urban infill areas, the current 1 in 100 year benchmark flood level will be applied, with an extra potential sea level rise allowance of 0.2 metres being applied to finished floor levels.*

This does not apply:

- to development accommodating emergency and community facilities (as identified in Clause 13.02 of the State Planning Policy Framework) where an allowance of 0.8 metre sea level rise will be used if the West Gippsland Catchment Management Authority support the proposal\*\*.
- to minor development proposals such as non-habitable outbuildings, decking and the like where a reduced floor level is supported by the West Gippsland Catchment Management Authority.
- when a development proponent elects to establish a higher floor level.

\*\* It is noted that the Guidelines for Coastal Management Authorities, June 2012 state a clear policy preference for emergency and community facilities to be located outside flood prone areas.

- *In all greenfield areas, the 2100 benchmark flood level (incorporating at least 0.8 metre potential sea level rise) will be applied.*

This does not apply:

- to single dwellings where the urban infill benchmark flood level above will be utilised\*\*\*.
- to minor development proposals such as non-habitable outbuildings, decking and the like where a reduced floor level is supported by the West Gippsland Catchment Management Authority.

## **HUMAN RIGHTS**

Wellington Shire Council is committed to upholding the Human Rights principles as outlined in the *Charter of Human Rights and Responsibilities Act 2006 (Vic)* and referred to in Council's Human Rights Policy. The Human Rights Checklist has been completed and this policy accords with Council's policy commitment to uphold human rights principles.

### **Modification History**

*Date:* 4 March 2014 - policy amended to exclude urban infill areas in Port Albert from the requirements of this policy.

*Procedure:* -

*Strategy:* -

*Related policies:* Clause 13.01, 13.02 and 21.04 of the Wellington Planning Scheme, Guidelines for Coastal Management Authorities, Department of Sustainability and Environment, June 2012 (or any subsequent version) and Assessing Development in Relation to Sea Level Rise Council report, 19 November 2013, 4 March 2014 Council report on Amendment C33 (updated flood overlay controls) – implications for Port Albert.

\*\*\* It is noted that single dwellings in greenfield areas may not be supported by Council or the WGCMA. Each application will be assessed on its merits.



## **C4 - REPORT**

# **GENERAL MANAGER BUILT & NATURAL ENVIRONMENT**

## ITEM C4.1

## APPLICATION FOR REVOCATION OF UNUSED ROAD LICENCE – PART OF GOVERNMENT ROAD- EAST OF CROWN ALLOTMENT 22A&B SECTION 10, PARISH OF STRATFORD

DIVISION: BUILT AND NATURAL ENVIRONMENT  
ACTION OFFICER: MANAGER ASSETS & PROJECTS  
DATE: 4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
		✓	✓	✓		✓		✓	

### OBJECTIVE

The objective of this report is for Council to consider an application from the abutting land owner for the revocation of part an unused road licence over the unused Government Road abutting the eastern boundary of Crown Allotment 22A&B Section 10, Parish of Stratford as shown on the attached plan.

### BACKGROUND

Unused roads may be licenced or leased licences either on an annual, triennial or 99 year term and are issued by the Department of Environment and Primary Industries (DEPI). They may be revoked (fully or in part) on written request from Council. DEPI is seeking advice from Council if this section of Government Road is required for public traffic.

The owner of the property described as Lot 2 Plan of Subdivision 323473, Parish of Stratford obtained a Wellington Shire Council Planning Permit P220/2013 which has a condition to have the unused licence revoked and access constructed for a section of unused Government Road to the north of their property. The unused road is fenced on both sides and is not currently grazed.

The registered licensee has deceased, and the licence was not transferred to the new owner of the abutting property who uses the licenced area as a road. When contacted by a council officer the new owner of the abutting property had no objection to the revocation of the licence.

### OPTIONS

Council has the following options:

1. Pursuant to *Section 407 (1) of the Land Act 1958*, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that the unused road licence held over the unused Government Road east of Crown Allotment 22A&B Section 10, Parish of Stratford be revoked; or
2. Object to the revocation of the licence as the road is not required for public traffic.

### PROPOSAL

It is proposed, pursuant to *Section 407 (1) of the Land Act 1958*, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that the unused road licence held over the unused Government Road east of Crown Allotment 22A&B Section 10 , Parish of Stratford be revoked.

## **CONFLICT OF INTEREST**

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## **LEGISLATIVE IMPACT**

Application for revocation of the licence has been made pursuant to *Section 407(1) of the Land Act 1958*.

## **COUNCIL POLICY IMPACT**

There is no Council policy on the revocation of unused road licences. Each application is treated on merit.

## **COUNCIL PLAN IMPACT**

The Council Plan 2013 – 2017 Theme 4 Infrastructure states the following strategic objective and related strategy:

Strategic Objective

“Assets and infrastructure that meet current and future community needs”

Strategy 4.1

“Undertake service delivery planning to provide community assets in response to identified needs”

This report supports the above Council Plan strategic objective and strategy.

## **COMMUNITY IMPACT**

The unused Government Road is currently fenced and is not used for grazing purposes. Revocation of the licence will allow the use of this section of road reserve for access to the applicant's property, although this section of road will not be added to the Wellington Shire Council Register of Public Roads.

## **CONSULTATION IMPACT**

The revocation of the licence and the construction of access to the lot is a condition of Wellington Shire Council Planning Permit P220/2013. The planning permit application has gone through the public consultation process. The applicant has written to Council requesting Council advise DEPI the revocation of the licence is required.

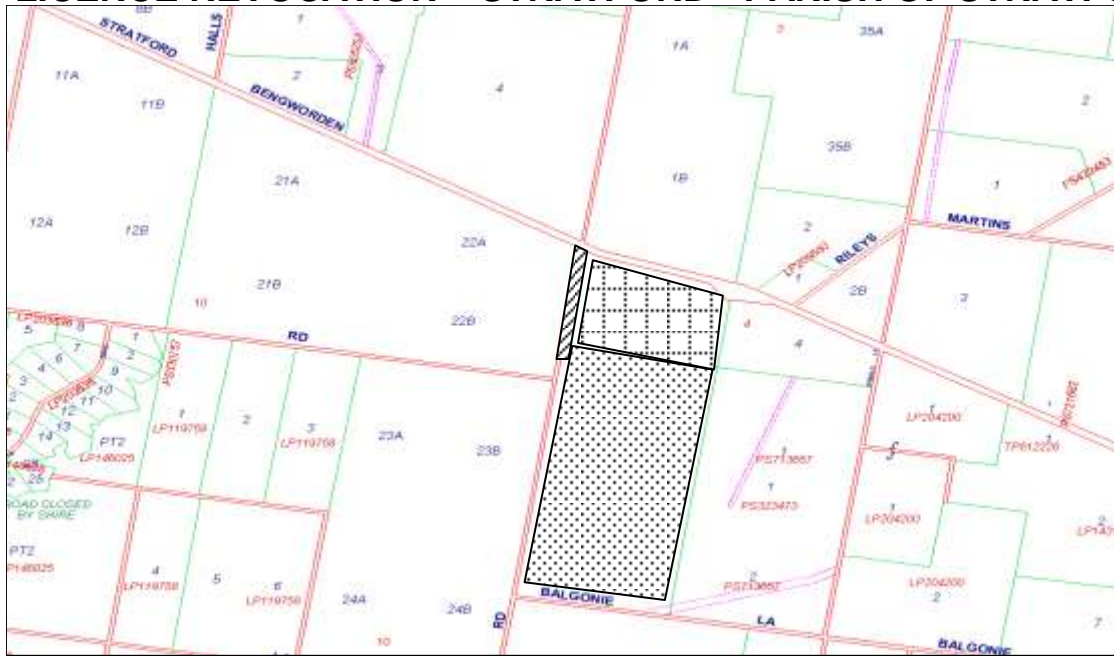
## **PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY**

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## RECOMMENDATION

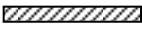
***That pursuant to Section 407 (1) of the Land Act 1958, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that the unused road licence held over the unused Government Road east of Crown Allotment 22A&B Section 10, Parish of Stratford be revoked.***

# LICENCE REVOCATION – STRATFORD - PARISH OF STRATFORD



-  LICENCE TO BE REVOKED
-  APPLICANT
-  LICENCE HOLDER



-  LICENCE TO BE REVOKED

## ITEM C4.2

## APPLICATION FOR REVOCATION OF UNUSED ROAD LICENCE – PART OF GOVERNMENT ROAD- NORTH OF CROWN ALLOTMENT 10A SECTION 2, PARISH OF WOODSIDE

DIVISION: BUILT AND NATURAL ENVIRONMENT

ACTION OFFICER: MANAGER ASSETS & PROJECTS

DATE: 4 MARCH 2014

IMPACTS									
Financial	Communication	Legislative	Council Policy	Council Plan	Resources & Staff	Community	Environmental	Consultation	Risk Management
		✓	✓	✓		✓		✓	

### OBJECTIVE

The objective of this report is for Council to consider an application from the abutting land owner for the revocation of part an unused road licence over the unused Government Road abutting the northern boundary of Crown Allotment 10A Section 2, Parish of Woodside as shown on the attached plan.

### BACKGROUND

Unused roads may be licenced or leased licences either on an annual, triennial or 99 year term and are issued by the Department of Environment and Primary Industries (DEPI). They may be revoked (fully or in part) on written request from Council. DEPI is seeking advice from Council if this section of Government Road is required for public traffic.

The owner of the property described as Crown Allotments 20A,20B,21A,21B Section 2, Parish of Woodside has made application to DEPI to have the western 250 metres of an unused road licence revoked for a section of unused Government Road abutting part of his property. The applicant proposes to use the Government Road for access to his property on the north side of the licence area.

The current licensee, has advised on 13 November 2013 that he has no objection to the revocation of the licence.

### OPTIONS

Council has the following options:

1. Pursuant to *Section 407 (1) of the Land Act 1958*, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that part of the unused road licence held over the unused Government Road north of Crown Allotment 10A Section 2, Parish of Woodside be revoked; or
2. Object to the revocation of the licence as the road is not required for public traffic.

### PROPOSAL

It is proposed, pursuant to *Section 407 (1) of the Land Act 1958*, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that the western 250 metres of the unused road licence held over the unused Government Road north of Crown Allotment 10A Section 2, Parish of Woodside be revoked.

## CONFLICT OF INTEREST

No staff and/or contractors involved in the compilation of this report have declared a Conflict of Interest.

## LEGISLATIVE IMPACT

Application for revocation of the licence has been made pursuant to *Section 407(1) of the Land Act 1958*.

## COUNCIL POLICY IMPACT

There is no Council Policy on the revocation of unused road licences. Each application is treated on merit.

## COUNCIL PLAN IMPACT

The Council Plan 2013 – 2017 Theme 4 Infrastructure states the following strategic objective and related strategy:

Strategic Objective

“Assets and infrastructure that meet current and future community needs”

Strategy 4.1

“Undertake service delivery planning to provide community assets in response to identified needs”

This report supports the above Council Plan strategic objective and strategy.

## COMMUNITY IMPACT

The unused Government Road is currently fenced and is used by the licensee for grazing purposes. Revocation of the licence will allow the use of this section of road reserve for access, although this section of road will not be added to the Wellington Shire Council Register of Public Roads.

## CONSULTATION IMPACT

There has been consultation between council officers, the applicant and the licensee. The applicant and the licensee are the only persons who have abutting properties to this “no through road”.

## PUBLIC QUESTIONS AND COMMENTS FROM THE GALLERY

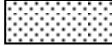
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### RECOMMENDATION

***That Pursuant to Section 407 (1) of the Land Act 1958, as it is desirable in the public interest, the Department of Environment and Primary Industries be requested that the western 250 metres of the unused road licence held over the unused Government Road north of Crown Allotment 10A Section 2, Parish of Woodside be revoked.***

# LICENCE REVOCATION – WOODSIDE - PARISH OF WOODSIDE



- |   |                       |   |                |
|---|-----------------------|---|----------------|
|  | LICENCE TO BE REVOKED |  | LICENCE HOLDER |
|   |                       |  | APPLICANT      |



- |   |                       |
|---|-----------------------|
|  | LICENCE TO BE REVOKED |
|---|-----------------------|



## C5 - REPORT

# GENERAL MANAGER LIVEABILITY



**D. URGENT BUSINESS**



**E. FURTHER GALLERY AND CHAT ROOM COMMENTS**



**F. CONFIDENTIAL ATTACHMENT/S**

**F. CONFIDENTIAL ATTACHMENT/S**



**G. IN CLOSED SESSION**

**G. IN CLOSED SESSION**